



# Can Islam Accommodate Homosexual Acts? Qur'anic Revisionism and the Case of Scott Kugle

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## Abstract

Reformist authors in the West, most notably Scott Kugle, have called Islam's prohibition of *liwāṭ* (sodomy) and other same-sex behavior into question. Kugle's "Sexuality, Diversity, and Ethics in the Agenda of Progressive Muslims" (*Progressive Muslims*: 2003) and *Homosexuality in Islam* (2010) serve as the scholarly center for those who advocate sanctioning same-sex acts. Kugle traces the heritage of the Lot narrative's exegesis to al-Tabari (d. 310/923), which, he contends, later exegetes came to regard as theologically axiomatic and thus beyond question. This study argues that Kugle's critical methodological inconsistencies, misreading and misrepresentation of al-Tabari's and other traditional works, as well as the anachronistic transposition of modern categories onto the classical sources, completely undermine his argument.

## Introduction

Islam, like other major world religions (with the very recent exception of certain liberal denominations in the West), categorically prohibits all forms of same-sex erotic behavior.<sup>1</sup> Scholars have differed over questions of how particular homosexual acts should be technically categorized and/or punished, but they

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have never differed over the fact of their prohibition. The full and unbroken Islamic consensus on this issue embraces all recorded legal schools, theological persuasions, and historically documented sectarian divisions.

The evidentiary basis underlying this categorical prohibition of *liwāt* (sodomy) and other same-sex behavior lies in the explicit proscriptive statements of the Qur'an and Hadith, the transmitted consensus of the Companions and Successors, and the documented unanimity of the Islamic legal tradition throughout the ages. And yet the past decade and a half has witnessed the rise of Muslim reformist voices, primarily in the West, challenging this proscription and calling for the religious affirmation of same-gender sexual expression, relationships, and identities. Not only do these voices question the probative value of the relevant hadith evidence, as well as disregard the juristic and wider community consensus, but they also assert that the Qur'an does not prohibit same-sex relations per se, only homosexual rape motivated by inhospitality with the intent to dishonor. They further argue that the Qur'an should not be taken to prohibit such behaviors categorically, for it does not specifically address the abstract modern concept of "homosexuality" as an orientation or, for that matter, the notion of "sexual identity" more broadly.

This article attends to such revisionist readings, particularly the efforts to accommodate homoerotic behavior as religiously permissible. Although a fair amount of research and effort have gone into addressing the Islamic tradition's treatment of homoerotic behavior, analysis has often centered on juridical discussions concerning punishment,<sup>2</sup> medieval poetry,<sup>3</sup> and exegetical texts.<sup>4</sup> The only sustained attempt to argue for its permissibility to date is Scott Kugle's contribution to the 2003 anthology *Progressive Muslims: On Justice, Gender, and Pluralism*, entitled "Sexuality, Diversity, and Ethics in the Agenda of Progressive Muslims," and his *Homosexuality in Islam: Critical Reflection on Gay, Lesbian, and Transgender Muslims* (2010). Although this article will address both publications simultaneously, Kugle refers the reader of *Homosexuality in Islam* back to his previously published piece in *Progressive Muslims* for his full argument on certain points. Accordingly, this study will focus on his article, and his book will serve as a point of departure for additional arguments not contained in, or altered since, the earlier article.

We begin by evaluating the conceptual basis for Kugle's Qur'anic revisionism. This includes his deployment of "sexuality," Islam's purported "sex positivity," and the Qur'an's celebration of diversity, to which Kugle attempts to assimilate a diversity in sexual orientations and related practices. After evaluating this foundation, we review his critique of the *tafsīr* tradition, particularly the interpretation of the Lot<sup>5</sup> narratives recorded in the work of Muhammad b.

Jarir al-Tabari (d. 310/923). We then transition into Kugle's proposed revisionist hermeneutic, which uses what he calls a "semantic analysis" and a "thematic analysis," evaluating the sources used to develop both heuristics. Finally, we review the contributions of Ibn Hazm of Cordoba (d. 456/1064), whose approach and literalist methodology Kugle claims to endorse. The reader should note that this article follows Kugle's own order of presentation (particularly that of his 2003 article), which contains a number of preliminary discussions prior to taking up the question of the people of Lot in the Qur'an. Accordingly, roughly the first half of this article attends to Kugle's conceptual, terminological, and other preliminaries, while the second half (i.e., "Kugle and the Qur'an" on p. 60) analyzes his attempted rereading of the Lot narrative.

### **Sexual Orientation, Homosexuality, and Sexuality as Categories**

In his *Progressive Muslims* chapter, Kugle begins by articulating the "integral relationship between spirituality and sexuality"<sup>6</sup> and later posits Islam as a "sex-positive"<sup>7</sup> religion, particularly when compared to other, ostensibly more repressive and prudish, faiths. Kugle buttresses this view on the basis of several considerations, including: (1) the intersectionality of sexuality and spirituality in Islam; (2) the Qur'an's treatment of the Adamic fall as resulting from a shared failing of both Adam and Eve, rather than from sex or sexual desire per se; and (3) the Qur'an's affirmation of "diversity" as part of God's signs – a diversity, he argues, that should be extended to diverse sexual orientations and related erotic practices.

Kugle proceeds to affirm sexuality as "an indicator of our core being, a sexuality which interweaves thoughts, desires, motivations, acts and psychological and mental well-being," a definition borrowed from Momin Rahman's *Sexuality and Democracy*.<sup>8</sup> He later points to the historical and cultural contingency of homosexuality as a category, engaging with essentialist and constructionist responses to the homo/hetero binary and suggesting "queer" (in his 2003 article) as a superior neologism for "sexual orientations and practices"<sup>9</sup> that are distinct from the more common heteronormative sexuality.<sup>10</sup> A similar argument appears in *Homosexuality in Islam*, where Kugle remarks (correctly) that the Islamic tradition never expressed a conception of "sexuality" that exactly parallels modern psycho-social categories, in which one's sexuality is interpreted as a psychological marker and a central part of one's being.<sup>11</sup>

Kugle uncritically endorses contemporary terms and categories related to sex and sexual identities<sup>12</sup> that stand at the core of his argument. Yet the

willingness to approach such categories from a critical perspective is an unavoidable prerequisite for any serious discussion of the relationship between the Sharia and same-sex acts. Kugle correctly notes that the homo/hetero binary is a recent one and can be accounted for as a product of modernity. In this regard, one in fact finds a layer of complexity when addressing sexuality in the pre-modern tradition (both Islamic and otherwise) that is considerably more nuanced than the contemporary Western notions of sexuality and queer that Kugle endorses. Both of these notions contain an undifferentiated conglomeration of desires, motivations, psychological wellbeing and, crucially, *acts*. These definitions elide any meaningful distinction between inclinations and behavior – the very distinction that is, however, most relevant to the discourse and moral valuation of the Sharia. In addition, Kugle treats sexuality and sexual orientation as predetermined, essential, and immutable – a claim that is disputed even within contemporary queer studies circles.<sup>13</sup> Although the exact date of the homo/hetero binary's emergence is difficult to pinpoint, historians tend to agree that it emerged sometime in the late nineteenth century.<sup>14</sup> Some constructionist scholars have further argued that the conceptual categories of "gay" and "straight" were developed in order to more clearly locate sexual irregularity as a distinct psychological condition.<sup>15</sup>

Although not the main focus of this paper, one must distinguish between the constructionist and essentialist approaches precisely because of the way in which Kugle employs the contested essentialist conception of homosexuality to serve his project, a conceptualization that can only be applied anachronistically to the Islamic tradition.<sup>16</sup> Although Kugle acknowledges debates over the historical and cultural contingency of the term *homosexuality* and the corresponding conceptual category, he ultimately endorses "homosexuality" and "heterosexuality" as adequate categories for conceptualizing the psychological makeup of human beings in the sexual and affective realms. Homosexuality is presented as natural and fundamentally innate to one's makeup. Accordingly, just as God created all human beings with definable characteristics that are celebrated as part of human diversity (e.g., variation in color and gender), homosexuality – though not, conspicuously, bisexuality<sup>17</sup> – should be celebrated as yet another such discrete trait. Moreover, because it is presented as an entrenched psychic state lying "deep in the core of the human personality,"<sup>18</sup> critiquing it as "un-Islamic" would, for Kugle, be akin to denouncing one's skin color or gender as un-Islamic: Just as one cannot select one's biological sex or skin pigmentation, one cannot choose his/her sexual disposition.

In evaluating this set of claims, we must begin by asking what is meant by Kugle's description of homosexuality as being innate or natural. If by natural he is referring to the popular claim of genetic substantiation (he alludes vaguely to the claimed findings of modern science, but cites no specific studies),<sup>19</sup> it should be noted that no proven definitive epigenetic marking correlates to same-sex attraction or supports the notion of straightforward biological determinism for sexual orientation.<sup>20</sup> Even if future research could identify such a genetic marker, it is unclear by what principle such a correspondence could be used as a moral justification for acting upon said genetic predispositions in Islamic law. In fact, a recent study claims that men have a "genetic, evolutionary impulse to cheat."<sup>21</sup> Should Islam – or any other ethical system for that matter – therefore permit adulterous relations on the basis of this finding? Commenting on this study, Daniel Haqiqatjou asks:

Based on this, would there be a need to categorize people into identity groups or communities based on that [i.e., a genetic propensity for cheating]? For example, would those with a greater pull to cheat self-identify as "extrasexuals" with everyone else identifying as "intrasexuals"? Would there be "extrasexual pride parades" and an "extrasexual rights movement" that would demand that Islamic and Catholic schools make space for "alternative (read, 'adulterous') lifestyles" and give voice to loud and proud cheaters? Would refusal by these institutions then be stigmatized as "extraphobia"?<sup>22</sup>

Alternatively, if the claim that homosexuality is natural or innate means that people with same-sex attractions experience those feelings outside of their personal election and control, then it can readily be conceded that people do not generally choose their dominant sexual attraction. However, feelings that arise independently of one's conscious choice are not immediately deemed "natural" in many other instances. And even if they are, that does not make it automatically morally valid that they be acted upon. In fact, the Islamic tradition often speaks of temptation as stemming from the self (*nafs*) – an ingrained part of one's being if there ever was one – and its overtures are characterized as requiring discipline and control.

For example, God states in the Qur'an that humanity was created "anxious" (*halū*)<sup>23</sup> and "weak" (*da'if*).<sup>24</sup> Elsewhere, He says that humanity is a creature made "of haste" (*min 'ajal*).<sup>25</sup> And in a hadith, the Prophet (pbuh) is reported to have stated that the Fire is surrounded by temptation and desires (*huffāt al-nār bi al-shahawāt*).<sup>26</sup> According to another hadith, Angel Gabriel was commanded to look at the Fire, after which he said to God: "By Thy Honor, none shall enter it." God then ordered that the Fire be surrounded by pleasures

and instructed the Angel to look at it once more. Upon seeing the temptation and pleasures surrounding the Fire, Gabriel remarked: "By Thy Honor, I fear none shall be saved from it but that all shall enter it."<sup>27</sup>

Despite constituting part of our human disposition, we cannot use temptation, the overtures of the *naḥs*, and our inherent impatience and anxiety as excuses to succumb to sin. Opposite-sex attraction, for example, is experienced by most men and women; however, its presence does not legitimate casual intimacy, kissing, or even hugging outside of an Islamically valid legal relationship. Additionally, the impulse to lie, steal, or cheat may strike regularly and without consultation. All such impulses may be conceived of as somehow "natural" (and they certainly befall us absent any conscious choice), yet acting upon them is nonetheless prohibited. As such, people struggling with same-sex desires may take comfort in knowing that they are not unique in being burdened with powerful drives that must be disciplined and restrained.

In addition, we must recognize the cultural and historical contingency of the concept of homosexuality as a modern Western development. Did pre-modern peoples ever conceive of themselves as heterosexual or homosexual? Did sexual proclivities ever enter into their conception of self? If we take what has been registered in the historical record seriously, then the answer to both questions is "No." This does not mean that pre-modern persons had nothing to say about love or possess sexual inclinations (even ones directed toward the same sex), but rather that the presence of such desires was never viewed as constitutive of one's very identity. By contrast, modern Western societies pigeonhole individuals at a young age into one of two (or more) sexual orientations with which they must self-identify so that they will not be at risk of being "inauthentic" to the very "core of who they are."

Muslim societies also differ from modern Western ones in that they seem not to have found the presence of (at least certain kinds of) homoerotic desires particularly exceptional. In fact, they oftentimes versified these desires' pervasiveness and allure in medieval poetry – a reality Kugle acknowledges: "When one looks through the historical and literary records of Islamic civilization, one finds a rich archive of same-sex sexual desires and expressions, written by or reported about respected members of society."<sup>28</sup> Such attractions generally took the form of adult male infatuation with a "beardless youth" (*amrad*; pl., *murd murdān*), who had not yet outgrown the finer physique and smooth skin of a still not fully matured man.<sup>29</sup> (Adult male-male sexual desire and expression are, by comparison, relatively marginal in this same literature.)

A critical distinction that Kugle fails to mention, however, is that Muslim scholars never affirmed homoerotic *behavior* – as clear and distinct from ho-



moerotic *attractions* – to be anything other than rigorously prohibited from a normative religious perspective. Indeed, the very figure referenced by Kugle in his citations, Muhammad b. Dawud al-Zahiri (d. 297/909), a son of the eponymous founder of the Zahiri legal school who wrote *Kitāb Zahrā'* and later confessed unrequited feelings of love for a young male companion of his, never *acted on* his desires. Instead, *Kitāb al-Zahrā'* insists on the importance of governing one's sexual desires through pious restraint and speaks of the "martyrdom of chastity."<sup>30</sup> In a very real sense, Ibn Dawud al-Zahiri may present an early paragon for many Muslims struggling with same-sex attraction today as he admitted his own affection and yet maintained his God-consciousness (*taqwā*) and remained morally upright by refusing to act upon it. This conduct is often noted in al-Zahiri's biographies as a point of praise, with some citing a contested tradition of the Prophet (pbuh): "Whoever loves passionately (*'ashīqa*) but remains chaste, patient, and keeps his love a secret and dies, dies as a martyr"<sup>31</sup> – a tradition that al-Zahiri would recount on his death bed.<sup>32</sup>

Like Ibn Dawud al-Zahiri, the Zahiri Ibn Hazm wrote his own belletristic work on love entitled *Tawq al-Ḥamāmah* (*The Ring of the Dove*). In it, he attends to male-female sexual attraction, as well as to male-male and male-boy attraction, a fact that Kugle adduces as part of his revisionist argument in *Homosexuality in Islam*. The presence of this content has led some Western authors to speculate that Ibn Hazm was "homosexual," insofar as his dominant sexual attractions were concerned.<sup>33</sup> Be that as it may, this scholar was unwavering in his commitment to the categorical Qur'anic prohibition of same-sex *behaviors* affirmed by the consensus view of Muslim scholarship, as noted by Lois A. Giffen in "Ibn Hazm and the *Tawq al-Ḥamama*."

Ibn Hazm, in dealing with cases of love, makes no essential difference between instances of passionate attachment – man for man (or youth), boy for girl, man for woman (or maiden), or vice versa. (Homoeerotic attachments between women are not a subject of discussion.) As long as a story reveals some aspect of the nature of love and the psychology of lovers, it is most valuable grist for his mill. Whether the *behaviour* [emphasis mine] of the lover or the lovers has his approval, sympathy, pity or condemnation is quite another thing.<sup>34</sup>

Camilla Adang reaches much the same conclusion in her review of Ibn Hazm's work, where she states that he held that the only "lawful form of intercourse for a man is within wedlock, or with a slave-woman he owns. For a woman, only intercourse with her husband is lawful."<sup>35</sup> Of note is not simply that both Ibn Dawud al-Zahiri and Ibn Hazm maintained this consensus view

on licit and illicit sexual behaviors, but that neither of them seem to have viewed homoerotic – and specifically pederastic – sentiments as particularly aberrant in and of themselves. On the contrary, both were only too aware of their presence; however, they were more concerned with maintaining the behavioral standards of sexual conduct established by revelation, which calls for chastity as a rule and which permits sexual relations only within explicitly delineated, legally defined male-female relationships. We will revisit Ibn Hazm below, as his view that male-male anal intercourse (*liwāʾ*), although categorically prohibited, does not constitute a *ḥadd* crime figures prominently in Kugle's argumentation in *Homosexuality in Islam*.

### Sexuality in the Islamic Discursive Tradition

As discussed in the preceding section, the Sharia's conceptual framework presents an understanding of sexual desire and conduct that diverges considerably from the essentialist notions of orientation and disposition currently popular in the West. Far from being predetermined or immutable, sexual predilections are conceived of within a framework that accounts for their general heterogeneity vis-à-vis human experience. Indeed, any individual may feel attracted to someone else, and the presence of that desire is not essentialized into any defining identity. Rather, ethical valuations focus on what remains within the purview and concern of the sacred law, namely, *governable actions*. Such actions, however, include actions of the heart and mind (*aʿmāl al-qalb*), since one's thoughts are essential to internalizing proper conduct because they influence both a person's actions and soul. It is in this regard that Muslim scholars have emphasized the importance of self-consciously aligning one's thoughts with the Will of God. Abu Hamid al-Ghazali (d. 505/1111) states in his famous tract on happiness: "The aim of moral discipline is to purify the heart from the rust of passion and resentment, till, like a clear mirror, it reflects the light of God."<sup>36</sup>

In a hadith reported in multiple collections, the Prophet (pbuh) is reported to have specified how God adjudicates a person's deeds: Intending a good deed and performing it earns manifold rewards, intending a good deed but not being able to carry it out earns a single reward, intending to sin but then refraining from doing so for God's sake earns a single reward, and intending to sin and following through with it earns a single punishment.<sup>37</sup> In commenting on this hadith, Ibn Rajab al-Hanbali (d. 795/1393) remarks that the reward for one intending a sin but not carrying it out is exclusively for the one who abandons this sin for God's sake.<sup>38</sup> He further delineates that the intent behind abandoning the sin could itself constitute a sinful deed, even with no accompanying act of



the limbs, such as when a person abandons it merely for fear of what people might think.<sup>39</sup> Moreover, even one who intends to sin and allows that intention to settle in the heart such that it becomes a firm resolution, but later abandons that intent without reason, may be considered sinful because allowing the sin to settle constitutes an act of the heart. Ibn Rajab registers divergent views among the scholars on this issue.<sup>40</sup>

But scholars did not stop at simply cautioning against sinful thoughts; they stressed the importance of praiseworthy ones as well. Accordingly, having a good opinion of God (*husn al-zann bi Allāh*) was something the Prophet (pbuh) urged upon believers, instructing them to be confident in God's response to our prayers<sup>41</sup> and to never lose hope in God's Mercy.<sup>42</sup> Thoughts and internal musings, therefore, have consequences, and though one may not necessarily have complete jurisdiction over them, the decision to fixate upon them or to dispel them is, in principle, amenable to control. This ongoing process of self-regulation and cognitive evaluation is central to the Islamic moral and spiritual tradition, for the practice of spiritual maturation focuses on shepherding people to a place that will enable them to conceive of the world in a way that coincides with the demands of faith and the pleasure of God Almighty.

To be clear, I am not suggesting that someone can simply think oneself out of spontaneous same-sex desires, but instead positing that their potency and frequency can be attenuated to make the moral and spiritual struggle more manageable. When, however, one accepts homosexuality not only as a substantive conceptual category but as a central marker of one's very identity, then the need to regulate or somehow temper it will inevitably be conceived of, and internalized as, living with a "double consciousness" or of "being unfaithful to one's true self," if not downright "oppressive." But if we dispense with the contingent category of an essentializing homosexuality, then individuals who experience same-sex attraction can more readily situate their own struggle within the context of similar struggles and not conceive of it as an exceptional condition calling for special stigmatization or full embrace and "validation" on pain of being "untrue to one's core self." Therefore, Muslims should reject the essentializing and confining category of "homosexuality" (and its many cognates) altogether – particularly when touted as the basis of a personal "gay" or "queer" identity (as opposed to being strictly descriptive of one's sexual inclinations) – and instead remain faithful to the more flexible and truer conceptual categories underlying Islam's own discursive approach to sexuality.

Unlike contemporary Western notions of sexual orientation, the taxonomy of the Qur'an and Sunnah does not reflect a particular set of contingent historically and socially bound sensibilities, but rather establishes an independent,

divinely instituted conceptual and normative framework for guiding Muslims' approach to questions of gender and sexuality in any age. Terms such as *shahwah* (desire), *fāḥishah* (iniquity, gross indecency), *farj* (sexual organs), *buḍ'* (genitalia; intercourse), *liwāt* (sodomy), *ma'būn* (the receptive partner in sodomy), *ḥarth* (tillage), *nikāh* (marriage), *nasl* (family lineage), *iffah* (continence, chastity), and others are all indigenous to the Islamic discursive tradition as based on revelation. And thus they rightly determine the frame of reference Muslims have always used to navigate questions of desire, sexual acts (same-sex or otherwise), chastity, and related matters.

Kugle protests the use of *liwāt* and *lūṭī* (sodomite) in Islamic legal literature as running contrary to a literal commitment to the Qur'an. Although he is correct that the Qur'an does not employ these two specific nouns, let alone contain a specific term directly corresponding to homosexuality as a modern social construct understood to reflect the core of one's identity, this argument is little more than a red herring. The Qur'an also contains no terms that exactly render contemporary notions of rape, consent, and sexual assault, but surely Kugle would reject the allegation that any talk of a normative Qur'anic perspective on these topics amounts to no more than an illegitimate projection onto the text that runs contrary to a commitment to the "literal specificity of the Qur'an as revelation."<sup>43</sup> The fact that the Qur'an does not use specific terms corresponding directly to modern-day homosexuality and sexual orientation does not, therefore, mean that it contains no normative doctrine related to the substantive content implicit in these terms.

More to the point, Kugle nowhere justifies how the abstract, subjective, and culturally contingent notion of sexual identity can justifiably be wielded to override an explicit textual prohibition – one that Muslims consider to be divinely revealed (and hence objective, absolute, and unchanging) – of discrete sexual acts. The fact of the matter is that the Islamic tradition employs no term for distinguishing persons exclusively on the basis of internal sexual desire or orientation. Persons are not branded as fornicators merely on account of their desire to fornicate. Likewise, persons who experience same-sex attractions are not branded with any unique label either to pathologize and stigmatize them or to celebrate and affirm them. Although the comparison between fornication and homosexual behavior may be perceived as offensive to current Western sensibilities, Islamic norms and sensibilities consider all forms of misdirected attraction as undesirable.

Additionally, because revelation and the Sharia based on it are exclusively preoccupied with objective acts as opposed to vague subjective notions of orientation or disposition, the predomination of certain desires over others is im-

material when it comes to determining the legal qualification (*ḥukm*) assigned to objective discrete acts. Indeed, in the realm of sexuality, the cardinal legal axiom (*qā'idah fiqhīyah*) regarding sexual behavior in Islamic law is *al-aṣl fī al-abḍā' al-taḥrīm* (i.e., all sexual acts are prohibited by default except those explicitly permitted by the sacred law).<sup>44</sup> Accordingly, even persons who experience unelected and exclusive same-sex attractions – such that marriage, for instance, may not be a viable option given their lack of any erotic attraction to the opposite sex – are nevertheless subject to the law's objective parameters and required to observe abstinence if necessary.

Some revisionists have characterized this prospect as unduly onerous – even prejudicially burdensome – for such persons. However, in reality their situation is not categorically different from the requirement of celibacy for those who are unable to marry for any number of reasons. Not every desire has a permissible outlet, and many circumstances may prevent individuals from regularizing sexual relationships even in opposite-sex contexts (e.g., poverty, disease, looks, and happenstance). To mention an example that has received some attention as of late, Muslim women living in the West have lamented a number of factors that have contributed to the recent emergence of spinsterhood: unsupportive parents, a rapidly closing window for fertility, and few eligible Muslim bachelors.<sup>45</sup> Given these circumstances, should the community abandon the juristic consensus and let them marry non-Muslim men? The answer is “No.” Just like persons experiencing same-sex attractions, such individuals are obliged to preserve their chastity, abide by the dictates of the sacred law, and observe abstinence.

Additionally, because Kugle is concerned with subjective notions of disposition and orientation, he fails to account for the myriad indigenous terms used for contemporary homosexual practices, including *'amal qawm Lūt* (the act of Lot's people), *liwāt*, *mulāwatah* (synonym of *liwāt*), and other such variants that correlate the sexual indiscretions of Sodom to anal intercourse between men. One would, in effect, have to dismiss the entire corpus of Islamic scholarship if each and every term employed therein required explicit specification in the Qur'an with no latitude for alternatives. *Uṣūl*, *sunnah*, *ḥadīth*, *fiqh*, and many other technical indigenous terms are not mentioned in their widely known technical senses in the Qur'an, and yet no one doubts their legitimacy and appropriateness for conceptualizing and naming central aspects of Islamic religious discourse. Terms such as *liwāt* and *lūṭī* are no exception.

Kugle objects that *liwāt* and *lūṭī* were popularized “in later times.”<sup>46</sup> But how much later? In one ḥadīth, the Prophet (pbuh) is reported to have said: “God has cursed whoever carries out the actions of Lot's people (*man 'amila*

'*amal qawm Lūṭ*').<sup>47</sup> It is difficult to date with precision when this term was first employed, but '*amal qawm Lūṭ*' is used in al-Tabari's (d. 310/923) exegetical work, appears in several early hadith reports, and is employed in juristic works on whether male-male anal intercourse is subject to a divinely stipulated punishment (*ḥadd*) and, if so, on what grounds. *Liṭāṭ* appears later in Ibn Manzur's (d. 711/1311-12) famous dictionary *Lisān al-ʿArab*,<sup>48</sup> which was written in the seventh/eighth Islamic century, and numerous works thereafter. Of course, these two terms represent no departure from '*amal qawm Lūṭ*', but are merely derivatives thereof and are not employed in any categorically different sense.

In a hadith attributed to Ibn ʿAbbas and reported in Abu Dawud's canonical collection, Ibn ʿAbbas uses *lūṭīyah* to refer to sodomy.<sup>49</sup> In another report largely graded as weak (*ḍaʿīf*) and found in Ibn Majah's collection, the Prophet (pbuh) is reported to have cautioned against calling another man a *lūṭī* on pain of receiving twenty lashes.<sup>50</sup> The authenticity of these specific traditions is less important here than the fact of their dating to at least the early third Islamic century. Even if one were to dismiss them as fabrications, their inclusion in works collected at that time establishes the existence of the term *lūṭī*, although it should be mentioned that '*amal qawm Lūṭ*' figures more prominently in the earliest juristic works. The point here is that although scholars have employed varying terms, the terms' substance and meaning always and unambiguously referred to one and the same act. This is no different than, say, the fact that the science of Islamic theological beliefs is referred to alternatively as '*aqīdah*, *uṣūl al-dīn*, *ʿilm al-tawḥīd*, and by other terms – none of which are mentioned in the Qur'an or reported on the Prophet's (pbuh) authority, and all of which were "innovated" at a later date. And yet all of them refer to one and the same essential reality that no one would deny is part and parcel of Islam. Kugle's quibble with the mere terminology at play is, therefore, entirely irrelevant to this particular discussion.

Kugle also presents the lack of an explicit Qur'anic punishment for sexual acts between men or women as further proof of their permissibility. We must note, however, that the Qur'an stipulates no explicit punishment for rape, incest, bestiality, necrophilia, and a host of other sexual acts agreed upon by consensus to be immoral and prohibited. Can one therefore assume the Qur'an's endorsement, or even tacit permission, of these acts as well?

And now we arrive at another problematic aspect of Kugle's framing: One may concede that the Islamic tradition may be read as "sex positive," as Kugle avers, but that positivity must be qualified in concrete terms. What does it mean to be a sex-positive faith? Islam views the pursuit of sexual pleasure as laudable

only within the confines of specifically delineated circumstances<sup>51</sup> (all of which are invariably male-female), outside of which sexual activity – particularly penetrative intercourse – constitutes an offense that figures among the most serious that a Muslim can commit. Kugle goes out of his way to disregard this critical distinction, frequently translating and representing hadith reports, scholars' statements, and Qur'anic verses as advocating sexual release and celebrating sexual pleasure in their own right, irrespective of the context in which such release occurs and the participants' gender and legal relationship.

Take, for example, the introductory passage that Kugle quotes from Madelain Farah's translation of al-Ghazali's "Book on the Etiquette of Marriage" from his *Revival of the Religious Sciences*. Kugle faithfully reproduces the passage (with the exception of a few minor editorial changes), but with one notable exception: He has altered the original phrase "subjecting creatures to desire through which He drove them to **tillage** (*ḥirāthah*) [emphasis mine]"<sup>52</sup> to "subjecting creatures to desire through which God<sup>53</sup> impelled them toward **sexual intercourse** [emphasis mine]."<sup>54</sup> What is lost in this "emendation" is the direct implication and meaning of *ḥirāthah*, which linguistically denotes cultivation or tillage (used as a metaphor for sexual intercourse) and, as such, can only refer to a (lawful) sexual relationship between a man and a woman (i.e., the only type of relationship that can possibly constitute an act of "cultivation" or "tillage," namely, through the possibility of conception).

In his *Companion to the Qur'an*, W. M. Watt explains *ḥirāthah* as "a development of the primitive metaphor which compares sexual intercourse with the sowing of seed, and speaks of children as the fruit of the womb."<sup>55</sup> This point is absolutely essential, as cultivating land and tilling soil directly evoke an image of what a plot of land can potentially yield. Although Islamic law allows certain methods of contraception to avoid pregnancy,<sup>56</sup> just as it does not restrict legitimate sexual enjoyment between lawful male and female partners to penetrative intercourse alone, the message here is quite clear: Sexual relations are only lawful and praiseworthy when they occur within a *paradigmatically procreative*<sup>57</sup> (and therefore necessarily opposite-sex) context. The importance of progeny and lineage is further expounded upon by al-Ghazali in the sentences immediately following the excerpt cited by Kugle:

Then He glorified the matter of lineage, ascribed to it great importance, forbade on its account illegitimacy<sup>58</sup> and strongly denounced it through restrictions and reprimands, making the commission thereof an outlandish crime and a serious matter, and encouraging marriage through desire and command.<sup>59</sup>

Later al-Ghazali states: “The first advantage – that is, procreation – *is the prime cause, and on its account marriage was instituted* [emphasis mine]. The aim is to sustain lineage so that the world would not want for humankind.”<sup>60</sup> It should be noted here that despite the “sex positive” moniker Kugle applies to Islam, the Islamic tradition absolutely and uncompromisingly denounces sexual relations in any context not expressly permitted by the sacred law. Chastity is a chief attribute of belief and virtue, while licentiousness is reproached and censured.<sup>61</sup> Illicit sexual intercourse (*zinā*) is one of the few religious prohibitions for which God has mandated a *ḥadd* penalty, thereby indicating that it falls outside the sanctioned parameters and is both spiritually deleterious and socially damaging to the community’s moral fabric.

The fact that Islam limits its positive appraisal of the sexual life to discrete divinely sanctioned acts that occur within a paradigmatically procreative context is further elucidated in the following hadith of the Prophet (pbuh): “And in intercourse (*buḍʿ*)<sup>62</sup> there is [the reward of] charity.” Upon hearing this, the Companions were stunned and inquired how such a reward was possible when all one did was satisfy his desires (*shahwah*). The Prophet (pbuh) responded by explaining that had one satisfied his desires in an illicit manner, he would have been sinful; therefore, one is rewarded for satisfying one’s desires in a sanctioned manner.<sup>63</sup> In another hadith, the Prophet (pbuh) is reported to have said: “Whoever guarantees me what is between his two jaws and what is between his two legs, I shall guarantee him Paradise (*man yaḍman lī mā bayna lahyayhi wa mā bayna rijlayhi aḍman lahu al-jannah*).”<sup>64</sup> In multiple places in the Qur’an, God praises those who guard their private parts, even including this in one verse as being among the principal characteristics of belief for which Paradise is bestowed as an inheritance.<sup>65</sup> Elsewhere, He instructs Muslim men and women to lower their gaze as a precautionary measure against sexual misconduct.<sup>66</sup> The implication of these teachings is quite clear: Chastity is a difficult (but essential) virtue to uphold, and restraint is a challenging (but likewise essential) ethical imperative to enact. When one is able, through Divine Grace (*tawfīq*), to realize such a virtue, one is generously rewarded by God in the Hereafter with Paradise. Toward this end, Ibn Hazm remarks in *Ṭawq al-Ḥamāmah*, in a chapter entitled “Of the Virtue of Continence”:

The finest quality that a man can display in love is continence: to abstain from sin and all indecency. For so he will prove himself to be not indifferent to the heavenly reward, that eternal bliss reserved by God for those who dwell in His everlasting kingdom, neither will he disobey his Master Who has been so gracious to him, in appointing him to be a creature worthy to receive His commandments and prohibitions, Who sent unto him His Messengers, and



caused His Word to be immovably established with him – all this as a mark of His care for us, and His benevolence towards us.

The man whose heart is distraught and his mind preoccupied, whose yearning waxes so violent that it overmasters him, whose passion desires to conquer his reason, and whose lust would vanquish his religion; such a man, if he sets up self-reproach to be his strong tower of defense, is aware that the soul indeed “commands unto evil” (Koran XII 53). [...]

How then shall it be with a man whose breast enfolds a passion hotter than blazing tamarisk, whose flanks convulse with a rage keener than the edge of a sword, who has swallowed the draughts of patience more bitter than colocynt and converted his soul by force from grasping at the things it desired and was sure it could reach, for which it was well prepared, and there was no obstacle preventing its attainment of them? Surely he is worthy to rejoice tomorrow on the Day of Resurrection and to stand among those brought near to God’s throne in the abode of recompense and the world of everlasting life; surely he has a right to be secure from the terrors of the Great Uprising, and the awful dread of the Last Judgement, and that Allah shall compensate him on the Day of Resurrection with peace, for the anguish he suffers here below!<sup>67</sup>

With respect to the Qur’an’s treatment of “diversity” (*ikhtilāf*), Kugle’s disquisitions on homosexuality fail to account for the fairly obvious qualitative differences between the types of diversity celebrated (e.g., variant tribal, ethnic, and national groupings) and condemned (e.g., homosexual inclinations-*cum*-practices) in the Qur’an. The former have nothing to do with belief or action, whereas the latter, particularly when implemented, fall under the direct scrutiny of religious valuation. One may legitimately affirm the widespread existence of sexual “diversity,” just as Muslim scholars of the past did, and thereby fully acknowledge that some people’s sexual impulses may predominate in one form or another (e.g., same-sex, opposite-sex, or pederastic), but only with the all-important caveat that *all* are required to abide by God’s law and to abstain from such illicit sexual acts. Kugle goes to great lengths to demonstrate the Qur’an’s recognition of disparate sexual dispositions, including his mentioning of “men who are not in need of women” (Q. 24:30)<sup>68</sup>; however, that recognition in no way renders same-gender sexual activity permissible. Rather, it only substantiates the point that a recognition of “sexual diversity” can indeed, as has been the consensus of Muslims throughout history, coexist with an absolute prohibition of any sexual act that occurs outside the context of legally sanctioned and invariably male-female relationships.

## Kugle and the Qur'an

Having set the conceptual basis for his revisionism, what follows is Kugle's elaborate attempt to proffer an interpretation of the Qur'anic discourse on the people of Lot (*qawm Lūṭ*) that accommodates homosexual practice. The Lot narrative appears on nine separate occasions. The relevant citations and passages are provided below in the appendix, along with accompanying synopses that briefly explain the verses in light of the exegetical tradition.

Of the nine passages cited, six mention male-male sexual acts either explicitly with words such as "you come unto men/males (*ta' tūna al-rijāl/al-dhukrān*) instead of women" or implicitly by referring to Lot confronting his people outside his home, entreating them to fear God and to consider his daughters who, on account of their female gender, are "purer" for them as mates (see appendix, passages a, b, c, e, f, and g). The three passages that do not mention male-male sexual acts are brief, typically referencing Lot's station as a pious messenger of God as well as his people's disobedience in general terms (see appendix, passages d, h, and i). Of the six passages that do mention such acts, only the one in *Sūrat al-Ankabūt* also mentions "cutting off the road" and "practicing evil deeds in your assemblies" (see appendix, passage g). The remaining five passages speak *only* about male-male sexual acts, thereby reinforcing the belief that although his people may have been guilty of other crimes, their emblematic crime was homosexual intercourse. Passages in *Sūrat al-A'rāf*, *Sūrat al-Shu'arā'*, and *Sūrat al-Naml* explicitly mention "coming/coming with desire unto men instead of women" (see appendix, passages a, e, and f), whereas those in *Sūrah Hūd* and *Sūrat al-Hijr* recount Lot's pleading with his people to take "his daughters" (often understood as the tribe's women<sup>69</sup>) as mates instead of his male visitors (see appendix, passages b and c).

Taking all of these verses together reveals that the same-sex practices of Lot's people is specifically and exclusively condemned, for no mention is made – even by implication – of coercion, dishonoring, or any other factor. The Qur'an employs a rich vocabulary to indicate force and aggression, and yet none of those words appear in the many relevant passages. In contrast, the only words used in this regard – and repeatedly at that – relate directly to "sexual desire" (*shahwah*) practiced by *men* on other *men* instead of on *women*. The plain sense of these verses is so clear and unequivocal that no exegetes have ever differed over their interpretation in that regard.

In arguing for a reinterpretation of the Lot narratives that would allow consensual same-sex relations, Kugle calls for adhering to the "literal specificity"<sup>70</sup> of the Qur'an and thus accuses the classical-era jurists and theologians of interpolating their own prejudices into the exegetical and legal texts. Kugle rests

his Qur'anic hermeneutic on two interpretive methods, which he refers to as "semantic analysis" and "thematic analysis."<sup>71</sup> After conducting an investigation within these two analytical contexts, he then attempts to drive home his conclusion. I will here attempt to engage his hermeneutic on its own terms and interrogate both of his analytical frameworks as well as his use of them as part of his interpretive revisionism. In the article's final section, I will address his use of Ibn Hazm as part of his revisionist project.

### *Kugle and al-Tabari's Method of "Definition and Substitution"*

Kugle sets the stage for his semantic analysis by reviewing the famous exegetical work of Muhammad b. Jarir al-Tabari (d. 310/923) as an example of a tendentious "heteronormative" reading of the Qur'an. Kugle evaluates al-Tabari's treatment of Q. 7:80-81: "And (mention) Lot, when he said to his people, 'Do you commit iniquity (*fāḥishah*) such as none in creation have committed before you? For you come with desire unto men instead of women. Nay, you are a people transgressing (beyond bounds).'" He cites selectively from al-Tabari's work, accusing him of the curious charge of "definition and substitution" in which the exegete allegedly defines the nature of this iniquity on his own whim and then substitutes that subjective definition into his exegesis.<sup>72</sup> Kugle translates al-Tabari's commentary of Q. 7:80-81 as follows:

The transgression [*fahisha*] that they approach, for which they were punished by Allah, is "penetrating males sexually" [*ityan dhukur*]. The meaning is this: it is as if Lut were saying "You are, all of you, you nation of people, coming to men in their rears, out of lust, rather than coming to those that Allah has approved for you and made permissible to you from the women. You are a people that approach what Allah has prohibited for you. Therefore you rebel against Allah by that act." That is what the Qur'an means by going beyond the bounds [*israf*] when Lut said, *You are a people who go beyond all bounds*.<sup>73</sup>

A full translation, however, renders the following (Qur'anic verses are set in bold):

**When he said to his people** – when he said to his people from Sodom, and to them Lot was sent – **Do you commit iniquity (*fāḥisha*)** – the iniquity that they approached and for which God punished them is penetrating men sexually – **such as none in creation have committed before you?** – none had committed this indecency in the world prior to them – **Verily you come with desire unto men instead of women. Nay, you are a people transgressing**

**(beyond bounds)** – God is informing [us] as to what Lot conveyed to his people, and his reprimanding them for their actions: indeed you all, O people (*ayyuhā al-qawm*), approach men from their rears with desire (*shahwatan*) rather than coming to those whom God has approved for you and made permissible to you from among women. – **You are a people transgressing (beyond bounds)** – you are a people that approach what God has prohibited to you, insubordinate in your actions. And that is prodigality (*isrāf*) in this matter.<sup>74</sup>

Far from Kugle's accusation of a prejudicial or whimsical process of "definition and substitution," al-Tabari faithfully integrates these verses with a simple and straightforward explanation of their meanings – in fact citing the Qur'an itself to clarify its own import. Kugle objects to al-Tabari's glossing of the iniquity in question as "coming with desire unto men instead of women." Instead, he urges his reader to understand *fāḥishah* in its most generic and etymologically literal sense, devoid of the very context in which it is found. A full reading of Q. 7:80-81, however, shows Lot accusing his people of committing an unprecedented indecency, one identified in the *very next verse* as "*coming with desire unto men instead of women.*" Straining to decouple these two verses from each other and divorce them from their immediate context, Kugle suggests that "iniquity" could mean any type of indecent or unethical behavior and that al-Tabari, like the community of Muslim exegetes and jurists for a millennium after him, made the "mistake" of reading these two verses sequentially (which, he avers, results in a mere "speculative assertion" on their part) and as they appear in multiple places in the Qur'an.

In addition, Kugle's charge of "definition and substitution" makes even less sense when one realizes that al-Tabari's exegetical method is faithful to the Qur'anic text of the Lot narrative, for it contains hardly any of his own commentary. In fact, al-Tabari does nothing but quote from the Qur'an itself to elucidate the meaning of Q. 7:80-81. Shockingly, Kugle dismisses this "heterosexual interpolation" as biased, even though the exegete uses the very words and phrases of God Himself drawn from the same passages upon which he is commenting.

Later, Kugle again cites this same method to charge al-Tabari with asserting that the sole content of Lot's prophetic mission and purpose was to forbid intercourse between men – with the implication that this prohibition would somehow be open to question as long as it could be shown that it was not the *only*, or even the principal, reason why Lot was sent to his people. Kugle quotes al-Tabari as stating: "This approach [declaring anal sex between men hateful] was the content of Lot's prophetic message [*risala*]; his purpose was to make this

act forbidden.”<sup>75</sup> Unfortunately, this statement appears nowhere in al-Tabari’s actual exegetical work. Instead, al-Tabari remarks when speaking of Q. 7:83 (*So We rescued him and his household, save his wife; she was of those who stayed behind*):

When Lot’s people rejected him – despite his many reprimands on account of the iniquity they were committing, and his conveying to them the message of his Lord concerning what was forbidden to them – with stubborn insolence, We saved Lot and his believing family except his wife, for she was to Lot a deceiver and in God a disbeliever (*kāfirah*).<sup>76</sup>

Kugle attempts to paint al-Tabari as being so fixated upon the prohibition of this particular act that he was incapable of reading the Lot narrative as anything else. And yet there is little evidence that al-Tabari did anything other than render meanings that accord with the direct and obvious import of the verses in question. At no point does al-Tabari suggest that anal sex between men was the sole, or even principal, mission for which Lot was commissioned. That said, even if he *had* made such an assertion, this would not be an altogether unreasonable conclusion given the Qur’an’s repeated – and usually exclusive – mention of “coming with desire unto men instead of women” within the context of the Lot narrative. All exegetes acknowledged and cataloged the diverse crimes committed by the people of Sodom, but it was the same-sex acts between men for which they were most infamous, a fact that exegetical commentary on this narrative has never failed to reflect. In effect, Kugle dismisses over a thousand years’ worth of scholarship after al-Tabari, along with the entire community of Muslims before him who concurred with and echoed his reading, as a simple reflection of how “disempowered” later exegetes were from offering alternative readings.

### *Kugle and Semantic Analysis*

After having evaluated the purported inadequacies of al-Tabari’s commentary, Kugle begins to propose his own hermeneutic, which starts with a semantic analysis that “does not trust a simple translation” but demands that words “become enmeshed in a web of relationships to other words.” According to him, this method enables one to gain a fuller understanding of terms in their Qur’anic context<sup>77</sup> because it “gives a very ‘literal’ reading of the text. It respects the word of the Qur’an not as defined by human authorities who assign them meanings by definition and substitution, but rather as defined by their placement in relation to other words in the Qur’an itself.”<sup>78</sup>

He then presents Amreen Jamal's "The Story of Lut and the Qur'an's Perception of the Morality of Same-Sex Sexuality" as the "first critical attempt to reassess the Qur'an's view of same-sex relationships."<sup>79</sup> In doing so, he reports Jamal's conclusion that the various terms associated with this narrative are not exclusive to Lot's people or to same-sex sexuality. Jamal, for instance, shows that terms such as *fāhishah*, *shahwah*, and *isrāf* (prodigality) – which appear prominently in this narrative – also appear in other contexts in the Qur'an that refer to indiscretions that are at times "heterosexual" (such as *zinā* [male-female fornication and adultery]) and, in other instances, to misdeeds that are entirely non-sexual in nature.

But Kugle fails to disclose the remainder of Jamal's conclusions, many of which directly undermine his own revisionist objectives. Jamal maintains that "[u]ndeniably, the moral terms associated with same-sex sexuality in the Qur'an ultimately give it a negative evaluation and deem it to be a sin. However, these same moral terms are often used to evaluate opposite-sex abominations such as adultery, fornication and/or incest, as well as other non-sexual practices, examples of which have already been outlined."<sup>80</sup> It is remarkable that despite her detailed, eighty-eight-page semantic analysis of no fewer than seventeen variant root words that appear in the narrative across fourteen different *sūrahs*, Kugle does not consider Jamal's conclusions regarding the "undeniable sinfulness" of same-sex sexuality probative. And so his appeal to semantic analysis is thus ultimately meaningless for his larger project. Far from supporting his effort to recast same-gender sexuality as morally neutral and religiously legitimate, Jamal's exhaustive semantic analysis, which encompasses all of the operative terms upon which the narrative is based as they are used throughout the Qur'an, leads to the exact opposite conclusion.

### *Kugle's Thematic Analysis*

Kugle begins his thematic analysis by providing some background on this approach and articulating how it differs from classical methodologies. According to him, this type of analysis accounts for the Qur'an's structural nuances and dialectic more readily than do the classical commentaries, which allegedly ignore this dynamic.<sup>81</sup> But it remains unclear how his proposed thematic analysis differs from Jamal's effort to evaluate the placement of the narrative's recurrent terms as found throughout the Qur'an. Setting this aside, Kugle demonstrates thematic analysis by explaining how *water*, depending on the context of the Qur'anic passage and larger scriptural theme, may refer to "liquid H<sub>2</sub>O" or elsewhere provide imagery as "rainfall, seas, or a means of ritual pu-



rification.”<sup>82</sup> Kugle notes that such a thematic analysis forces us to “examine the way our economies destroy the environmental interconnectedness that is the apparent conduit for Allah’s continuous creation and provision.”<sup>83</sup> However, his thematic analysis of *water* scarcely differs from the conclusions of classical commentaries and theologians, many of whom spoke of it as provision and essential to life and incorporated rainfall, seas, and ritual purification into their works. None of Kugle’s conclusions or interpretations on this score can be classified as revisionist, unprecedented, or uniquely insightful.

After having accused classical exegetes of entirely ignoring thematic analysis, Kugle turns to a classical genre that he considers illustrative of the very type of thematic analysis that he advocates: *qaṣaṣ al-anbiyā*<sup>84</sup> (stories of the prophets). This genre focuses on collecting available reports about the prophets mentioned in the Qur’an and coalescing them into fluid, chronological narratives. To provide heft to his forthcoming usage of *qaṣaṣ* commentary, Kugle asserts that the practice of telling such stories was “just as old and *just as authentic* [emphasis mine] as making explicit commentaries on the Qur’an.”<sup>85</sup> Such a statement can only charitably be described as dubious. In reality, the tradition of storytelling held very little authority in general and has never held any at all in jurisprudence (*fiqh*) or theology (*‘aqīdah*).

During Islam’s formative period, a category of preachers emerged who were devoted to sermonizing the masses via stories and narratives. Popularly referred to as *quṣṣāṣ* (storytellers, sing. *qāṣṣ*), their aim depended on context. On the battlefield they were motivators, in the mosque they were softeners of hearts, in the streets they were admonishers or sometimes performers. Scholars have differed over when the *quṣṣāṣ* appeared, with Khalil ‘Athamina dating this back to “at least one generation before the outbreak of the first civil war in 657 A.D.”<sup>86</sup> Islam’s expansion into foreign territory revealed an urgent need to convey the new religion’s teachings to peoples to whom Arabic was inaccessible. To bridge this gap and to address new converts, *quṣṣāṣ* emerged to facilitate instruction, principally about the Qur’an and its narrative stories.<sup>87</sup> ‘Athamina notes that “pious theologians exhibited a great degree of tolerance toward the phenomenon of *qaṣaṣ* itself, although they themselves considered it a negative innovation and a deviation from the rules of Islamic sunna.”<sup>88</sup>

Eventually, the genre deteriorated into what Charles Pellat has described as fraud and charlatanism.<sup>89</sup> People were cautioned against storytellers, for these individuals frequently interposed sporadic narratives from unnamed sources, myths, legends, and *Isrā’īlīyāt* (patristic and midrashic traditions and folklore).<sup>90</sup> Although the Prophet (pbuh) permitted his followers to listen to the tales and narrations of earlier Abrahamic communities, he warned them against

accepting or denying those that could not be specifically affirmed or negated by Islam's own authoritative revealed sources. (*Isrā'īlīyāt* that flatly contradicted Islamic beliefs were, of course, rejected out of hand.)<sup>91</sup>

Preachers and scholars began documenting *qaṣaṣ* narrations to convey general benefits, lessons, and morals; however, even the authors of such works assigned them no probative value whatsoever in terms of creed and jurisprudence. Well-intended *quṣṣāṣ* could relate stories, but scholars were keen to ensure that their scope and preaching did not infringe upon the preserve of proper scholarly authority, especially where the Prophet (pbuh), God's nature and attributes, and the Sharia's rulings (*aḥkām*) were concerned.<sup>92</sup> No jurisprudential work mentions a *qaṣaṣ* text as the prime evidence for determining a legal ruling. Therefore, to claim that such works were *just as authentic* as exegetical commentaries – particularly for legal derivation – constitutes a serious error that bespeaks a lack of familiarity with established Islamic legal norms and methods. Proper exegetical works, in sharp contrast to works of *qaṣaṣ*, were written by prominent scholars throughout the ages, including the likes of Ibn al-Jawzi (d. 597/1116), al-Razi (d. 606/1209), al-Qurtubi (d. 671/1273). Walid Saleh has remarked that *tafsīr* “stands at the heart of the Islamic literatures produced in any age,” later describing it as the “most important bearer of religious thinking.”<sup>93</sup> And this is why Gibril Haddad has stated that “[a]ll the great exegetes agreed on *tafsīr* as requiring mastery in the entire spectrum of the Islamic disciplines.”<sup>94</sup> None of this can be said for the genre of *qaṣaṣ*.

Despite these glaring methodological errors, Kugle not only marshals *qaṣaṣ* literature enthusiastically as part of his revisionist epistemology, but also consecrates it as *the* central piece in his effort to extract a more “reliable” understanding of the Lot narrative. With this in mind, he cites lengthy passages from the *qaṣaṣ* work of Muhammad b. ‘Abd Allah al-Kisa’i (active fifth/eleventh century),<sup>95</sup> who, he states, “quotes from earlier books that no longer exist.”<sup>96</sup> Note here that Kugle erroneously cites the al-Kisa’i who wrote the *qaṣaṣ* work in question as ‘Ali b. Hamza al-Kisa’i (d. 189/804), the famous transmitter of one of the seven canonical Qur’anic readings (*qirā’āt*) and founder of an early school of grammar based in Kufa. Muhammad b. ‘Abd Allah al-Kisa’i, however, the author of the later *qaṣaṣ* work in which Kugle anchors the bulk of his revisionism, is by all counts an obscure figure. Little has been recorded about his life, his date of death is uncertain, and no other work has been attributed to him aside from his aforementioned *qaṣaṣ* collection, itself a marginal and relatively unknown work in the larger genre.

At any rate, in this lesser-known al-Kisa’i’s work, the Lot narrative is presented in a sequential, comprehensive format. The people of Sodom are re-

ported to have been guilty of a variety of crimes, including idolatry and myriad forms of gambling. Concerned about foreign intrusion during a time of famine, Satan appears to them as a man and scolds them for not having safeguarded their orchards as they had their homes. He suggests that any foreign male intruder be accosted and raped. Heeding Satan's advice, the town's men become accustomed to such acts of violence and indecency until Lot appears and admonishes them, but to no avail. He remains with them for some time, after which a group of angels appears in the form of male visitors. Lot takes them in immediately, afraid of what might happen to them. Ultimately, the men of Sodom learn of their presence and charge Lot's home, despite his entreating them to take his daughters instead, who are "purer for them." At this point, the angels reveal their true identity to Lot and invoke God's punishment upon the people. Soon after the town is destroyed.

Note the glaring incongruence in Kugle's epistemology. Elsewhere, he critiques the hadith tradition for having insufficiently scrutinized the probity of individual hadith reports.<sup>97</sup> In fact, he laments that people nowadays "cite hadith without discussing the reliability of the hadith's chain of narration or judging the authenticity of the report's content to assess what level of certainty can be attributed to the knowledge the report conveys,"<sup>98</sup> and that "neo-traditionalists" have weaponized hadiths to further their own agenda, carelessly and without any concern for their authenticity. Kugle belabors the well-known point that the majority of hadith reports are classified as non-definitive (*ẓannī*), in contrast to the certainty (*qaṭ'īyah*) of mass-transmitted (*mutawāṭir*) texts, a category that contains the entirety of the Qur'anic text and a relatively small number of hadith narrations.<sup>99</sup> Indeed, he makes much ado about the hadiths' purported "unreliability" and how they merely reflect a neo-traditionalist "vision of orthodoxy," further charging that the few still trained to scrutinize hadith credibility today have "abandoned their duty."<sup>100</sup> In a dedicated chapter on Hadith in *Homosexuality in Islam*,<sup>101</sup> Kugle brings up reason after reason for rejecting *ṣaḥīḥ* (sound) hadith reports — a label he deems "optimistic"<sup>102</sup> and that merely serves to make otherwise tenuous reports appear more reliable than they really are.<sup>103</sup> It is curious indeed that he is so suspicious of these rigorously authenticated reports and yet places enormous evidentiary weight upon *qaṣaṣ* materials from an obscure late author that have no chain of transmission (*isnād*) or other evidentiary basis whatsoever.<sup>104</sup>

To his credit, Kugle refers to this very objection as a "possible critique" and avers that some may refer to al-Kisa'i's account as a "'fictional' story."<sup>105</sup> He admits that critics might "rush" to point out that al-Kisa'i provides no reports with narrative chains extending back to the Prophet or the Companions,

dissimulating the fact that al-Kisa'i furnishes no reports with narrative chains at all.<sup>106</sup> Plying such material as reliable and authoritative, if not quasi-apodictic, while casually dismissing the majority of an entire genre of diligently scrutinized revelational statements as merely speculative is both epistemologically incoherent and radically at odds with the Islamic scholarly tradition under the rubric of which Kugle claims to be advancing his cause. This epistemological haphazardness is yet another demonstration of how committed he seems to be to promoting anything that advances his revisionist account, no matter how tendentious the source or incoherent the methodology.

Moreover, even when quoting from these dubious sources Kugle selects only those passages that support his goals. In his presentation of events, al-Kisa'i cites Q. 11:78, "He said, 'O my people, these are my daughters; they are purer for you,'" in conjunction with the end of Q. 15:71, "'if indeed you must act,'" and then specifies "meaning sexual intercourse."<sup>107</sup> This passage occurs after the townspeople learn of the handsome young "men" residing at Lot's home. When they demand that he surrender them, Lot offers his daughters, who are "purer" for them. This is the context in which al-Kisa'i interprets the purity mentioned by Lot as relating to sexual intercourse, thereby directly implying that opposite-sex acts hold a purity that same-sex acts inherently do not. Yet Kugle fails to cite this passage and selects only certain *qaṣaṣ* works. For example, might he have ignored Ibn Kathir's (d. 774/1373) renowned *qaṣaṣ* work that states that the townspeople "invented an iniquity that none among the children of Adam had preceded them in committing by penetrating men sexually (*ityān al-dhukrān*) of all creatures, leaving what God had created of righteous female servants"?<sup>108</sup>

Recognizing the tenuous and rather fickle nature of the narrative transmitted in al-Kisa'i's work, Kugle attempts to buttress his "thematic analysis" with the *qaṣaṣ* work of the Shi'ite author Qutb al-Din al-Rawandi (d. 573/1177). Unlike the *qaṣaṣ* of al-Kisa'i, this one contains traditions with accompanying chains of transmission (*isnād*). Kugle cites two traditions, both of which he represents misleadingly. The first tradition begins with the Prophet (pbuh) asking Angel Gabriel "why and how the people of Lut were destroyed."<sup>109</sup> Gabriel responds that they neither cleaned themselves after excreting nor purified themselves after entering a state of major ritual impurity (*janābah*), and refused to share food generously with others. Although this hadith is presented in context, it does not mention highway robbery or "coming with desire unto men instead of women," both explicitly (and, in the case of the latter, recurrently) highlighted in the Qur'an. Nonetheless, Kugle uses this obviously partial listing – are we to conclude that highway robbery is not a crime, since it too is absent

from this listing? – to establish the “true” infidelity of Lot’s people (i.e., greed, avarice, covetousness, and the like) and to deliberately exclude same-sex intercourse. But does this not directly contradict the literal wording of the Qur’an to which he claims such unwavering allegiance? He then mentions a second tradition, one that speaks of the greed and avarice of Lot’s people, reporting that they engaged in sexual acts to deter travelers as well as impecunious and destitute petitioners. It was not, Kugle puts forth, consensual sex among men of which the Sodomites were guilty, but violent rape.

Here, one must bear in mind al-Rawandi’s location as a medieval Shi’ite scholar. As in Sunni scholarship, Shi’ite scholars would not consider his *qaṣaṣ* narrations anywhere near as probative as their own authoritative Hadith collections known as the Four Books (*al-Kutub al-Arba’ah*), *Nahj al-Balāghah*, *Risālat al-Huqūq*, or one of the many other primary texts that form their tradition’s central corpus. In addition, Kugle applies absolutely no scrutiny whatsoever to the narrations he cites. Are they sound? How have scholars graded them? What is known about their transmitters? He provides no answers.

Second, Kugle is guilty yet again of selective citation, for he does not mention the traditions surrounding the ones he cites that explicitly mention same-gender intercourse as one of the iniquities of Lot’s people. These traditions include the following:

Abu Basir reports from one of the two, may God’s blessings be upon them, concerning the verse “Do you commit iniquity (*a-ta’ūna al-fāḥishah*)”: Iblis came to them in the image of an effeminate youth wearing fine clothing. He exhibited attraction toward them, directing them to have intercourse with him [as the passive partner] and they did so. Had he directed them to be the passive partner, they would have refused, but instead they grew to enjoy it. Then he left them as they were, and they continued [having intercourse] with one another after that.<sup>110</sup>

Clearly, this particular tradition bears no resemblance to the narrative Kugle is attempting to advance because it paints same-sex intercourse as a phenomenon engendered by Satan and alleges that it was predominant among youth (*shabāb*). Will Kugle grant this tradition legitimacy as well? Furthermore, the narration mentions nothing of rape or coercion but explicitly states that the youth grew to *enjoy* this activity and so continued to engage in it – clearly in a consensual and mutually pleasurable manner – after Satan’s departure. It also depicts taking pleasure in the passive role (i.e., assuming the role of *ma’būn*) as particularly repugnant to one’s natural constitution (*fiṭrah*), yet something that one can grow to enjoy through repeated indulgence.

In addition, Kugle misreads the second tradition. It is not a commentary on Lot's people, but a commentary on the potential outcome of unrestrained avarice. The tradition states that if avarice is not controlled, one may eventually end up as sexually unbridled as the people of Lot. Kugle translates the end of the tradition as stating: "They would rape them (*faḍaḥūhu*) without sexual need, in order to dishonor them. They persisted in this behavior until they began to search out men and *force themselves on them* [emphasis mine]."<sup>111</sup> A proper translation, however, renders: "They would rape the visitor (*faḍaḥūhu*) without desire (*shahwah*). They persisted in this behavior until they sought out men and provided them compensation (*yu 'tūna 'alayhi al-niḥal*)."

In context, although Lot's people are first described as rapacious, it is this very consumption of their own wealth and possessions that leads them to rape male visitors so often that they initiate *consensual* same-sex intercourse among themselves. Avarice, greed, same-sex forcible intercourse, and same-sex *consensual* intercourse all fall equally under this narration's opprobrium. In fact, the last practice is, if anything, depicted as the ultimate moral outrage to which the others, if left unchecked, can eventually lead.

All of this still leaves a fairly important loose end: Why did Lot offer his daughters when the men clearly desired his guests? In order to reconcile this verse with the rest of his account, Kugle asserts that this offering is a type of hospitality that Lot extended to his guests. In other words, Lot was so troubled by the possibility that his guests would be subjected to violent gang rape might reflect poorly on his hospitality that he would allow the men to rape his own daughters instead! Kugle describes this gesture as a type of sacrificial offering that demonstrates the sacred need to defend previously unknown guests over one's very kith and kin.

Recognizing the implausibility of such an interpretation, Kugle revealingly abandons this reading in *Homosexuality in Islam*, where he inquires: "Would anyone believe that a Prophet would offer his daughters to assailants intent on rape, as if their raping women would make them 'pure'?"<sup>112</sup> His indignation at such a reading is extraordinary, particularly given that he had proposed this very interpretation only a few years prior in his earlier *Progressive Muslims* article: "When Lut offers up his family members (who happen to be female daughters) in exchange for his guests (who happen to be male visitors), he displays in most extreme terms the sacredness of protecting guests who are elevated even above the status of offspring."<sup>113</sup> The revised hermeneutic in *Homosexuality* fails even to acknowledge this prior position. In addition, it makes no effort to reconcile the two, or perhaps to offer a reason as to *why* Kugle has modified his prior interpretation.



As an alternative “exegesis,” he now insists that Lot was making a “sarcastic comparison” intended to expose the vile nature of the assailants’ ill intent.<sup>114</sup> Despite his best efforts to offer a more credible reading, Kugle posits yet another far-fetched and most improbable interpretation: Lot’s mentioning of his daughters as being “purer” is merely tongue-in-cheek and not intended to be taken literally. That his daughters are female is presented as merely accidental, with any focus on gender being put at the feet of sex-obsessed theologians bent on supporting their heterosexualist tribe – despite the fact that the Qur’an itself unmistakably links their *female* gender to the one and only reason of why they are “purer” for them as sexual partners than his *male* guests.

Kugle’s reworked narrative is thus highly implausible in that it does not square with the accounts of Lot in the Qur’an and relies exclusively upon spurious later traditions from dubious sources, all of which are cited selectively and systematically misrepresented. Furthermore, his project requires a complete dismissal of hundreds, if not thousands, of past and present scholars as simply products of a “heteronormative economy” that became too dominant for anyone to oppose. It is, in brief, a revisionism that ultimately fails to convince in its attempt to construct an alternative reading of the Lot narrative.

### **Comparing *Homosexuality in Islam* with “Sexuality, Diversity, and Ethics in the Agenda of Progressive Muslims”**

Kugle’s original article in *Progressive Muslims* was written in 2003, seven years prior to his dedicated work *Homosexuality in Islam* (2010). It is interesting to observe the incongruities between the two works, a few of which were mentioned earlier. For one, Kugle maintains the importance of reviewing Qur’anic themes but makes no mention of *qasas* works in his book. Al-Kisa’i and al-Rawandi make no appearance in this latter work – in stark contrast to the article, in which these two *qasas* works form the backbone of his thematic analysis. In addition, in *Homosexuality* he now maintains that Lot’s people were not simply guilty of sexual assault, but of infidelity as well. In this regard he writes:

The men who attacked Lot’s guests had wives and children, for they *do the men in lust besides the women* [*min dūn al-nisā’*], as Q. 27:55 emphasizes through its grammar. That “the men” whom they are sexually assaulting and “the women” with whom they already have sexual relationships are definite alerts attentive readers to the specificity of Lot’s condemnation. [...] Their sexual assault was driven by their infidelity and rejection of their prophet.<sup>115</sup>

Contrary to this assertion, the grammar of these verses gives no indication that these men necessarily had wives or children. Kugle seems to assume that the Arabic definite article works just like the English one (i.e., *alif* + *lām* = “the”), which (in English) always refers to a specific, as opposed to a generic, referent. That the Arabic definite article can and often does refer to a generic class and *not* to a specific referent – as in Latin and other languages – is an elementary point covered early on in any classical Arabic grammar or modern university Arabic course.

Yet Kugle seems either to be ignorant of this basic grammatical feature or to be obfuscating it deliberately to make a point that cannot be supported by a grammatically informed reading of the text. When, for instance, the Qur’an states that “Verily, man (*al-insān*) is in loss,” it is not referring to one specific man or a particular set of individuals, but to humanity as a class. In Arabic grammar, this is referred to as the generic definite article (*alif-lām al-jinsīyah*). Likewise, Lot’s question “Do you come with desire unto men (*al-rijāl*) instead of women (*al-nisā*)?” does not refer to any particular women but to *women as a class* (and, obviously, as distinctly opposed to *men as a class*). Had Lot meant to reference the men’s wives in particular, he would have said “your women” or perhaps “your wives.” Yet he says no such thing.

Kugle attempts to bolster the aforementioned argument by citing Q. 26:165-66, which he translates as “Do you do males from the wide world and leave what mates God has created for you? Indeed you are a people exceeding in aggression.” According to him, Lot is specifying here that these men have mates (*azwāj*) to whom they are already married, and therefore they are guilty not only of sexually assaulting men, but also of marital infidelity. Although “mates” can refer to spouses, the Qur’an frequently uses this term to refer to men and women being mates of one another as a normative principle (in contrast to a realized fact). For example, it states that God has “created (Q. 30:21)/made (Q. 42:11) for you mates from among yourselves” (*khalāqa/ja’ala lakum min anfusikum azwājan*). Traditional exegetes do not mention any wives when commenting on Q. 26:165-66, but interpret them as indicating that the men were so focused on anal (as opposed to vaginal) sex that they indulged in it with both men and women as well.<sup>116</sup>

In addition, if we attempt to understand this verse alongside the passage in which Lot offers his daughters for marriage (Q. 11:78), then the notion that the men were already married becomes even less probable. Presumably, if this were the case, Lot would simply have directed them to go to their wives. Moreover, when one considers the common interpretation of “daughters” in Q. 11:78 as “women of the town,”<sup>117</sup> this only reinforces the conclusion that the verse is

speaking of women more generally (i.e., the women of the town) who were created, as a generic class, to be the men's wives. That Lot's people replied "You know well that we have no claim on your daughters, and indeed, you know what we want" only further problematizes this interpretation.

Exegetes have interpreted the men's "having no claim" in various ways. Al-Tabari says it to mean that these men were uninterested in marriage and, as such, had no claim upon Lot's daughters as single, marriageable women.<sup>118</sup> Al-Zamakhshari views the men as having spurned male-female sexual acts so completely that they held marriage and male-female relations, in terms of normative belief and social practice, to be false and wrong (*bāṭilun madhhaban wa dīnan*), and male-male intercourse as legitimate and right (*ḥaqq*).<sup>119</sup> Al-Razi attributes the men's "having no claim" to a lack of sexual interest in women, given their exclusive desire for men.<sup>120</sup>

Given the lack of any precedent in the *tafsīr* tradition maintaining that the men of Sodom had wives, the common use of *azwāj* in non-matrimonial contexts, and Lot's offering of "his daughters" – be it his lineal descendants or his "spiritual daughters" (i.e., the women of his town) – it is highly improbable that Kugle's interpretation could be considered a valid rendering of this verse's meaning. This is yet another indication of his willingness to force his own agenda onto the text: He approaches the Qur'an with a settled conclusion in mind and manipulates his interpretive approach when and as needed to arrive at his already predetermined views.

### **Ibn Hazm and *Homosexuality in Islam***

Setting the allegations of infidelity aside, Kugle's most significant addition to *Homosexuality in Islam* is the famous Andalusian jurist and litterateur Ibn Hazm (d. 456/1064) of Cordoba. In fact, Ibn Hazm is so central to the book that his name appears recurrently in every chapter. Drawing from his legal treatise *Al-Muḥallā fī Sharḥ al-Mujallā*, Kugle presents his chosen hero as gallantly confronting an ossified legal tradition in need of a radical make-over. Describing Ibn Hazm as a "sexuality-sensitive"<sup>121</sup> interpreter of the Qur'an, Kugle praises him time and again for his "subtle theory of human nature,"<sup>122</sup> unlike others who exhibit no such understanding. Ibn Hazm is presented as "fearlessly challenging" the "conclusions of common piety and chauvinistic self-righteousness."<sup>123</sup> His erudition was so pronounced that he was "not only a jurist, but also an ethicist and literary author."<sup>124</sup> Kugle at times refers to Ibn Hazm as "our guide," idealizing his positions, methodology, and hermeneutic, which he seems to want to claim as his own.<sup>125</sup>

But despite this presentation of Ibn Hazm as the ideal juristic champion for those advocating the modern accommodation of same-sex behaviors, Ibn Hazm's actual views on their prohibition stand in direct opposition to Kugle's project, for they conform perfectly with the juristic consensus on such matters. This view does not come through clearly in Kugle's work, however, as he presents Ibn Hazm's endorsement of the consensus view as subordinate to his breaking with the dominant opinion as to whether *liwāṭ* – although categorically forbidden – rises to the level of a *ḥadd* crime. Although Kugle mentions Ibn Hazm's agreement with the juristic consensus, this point stands as a side note to his otherwise lengthy commentary on Ibn Hazm's views on the *ḥadd*, replete with excerpts from *Al-Muḥallā*, thereby giving the reader the impression that he was not simply challenging the dominant *ḥadd* ruling, but also the very understanding of the Lot narrative as in any way indicating the categorical prohibition of same-gender sexual intercourse.

A plain reading of this book – including the very passages in which Ibn Hazm challenges the dominant view of *liwāṭ* as a *ḥadd* crime – demonstrates that he did indeed hold same-sex acts to be categorically prohibited. For example, in responding to theologians who differed as to whether male anal intercourse amounted to a capital offense, Ibn Hazm responds:

The ruling [for anal intercourse between two men] is that when an evil (*munkar*) appears, it is necessary by the order of the Messenger of God, may God's peace and blessings be upon him, to alter that evil with one's hands. Therefore, it is necessary to carry out discretionary punishment (*ta'zīr*) that the Messenger of God prescribed, may God's peace and blessings be upon him, and not to exceed that...<sup>126</sup>

While discussing tribadism (*siḥāq*: female-to-female genital contact), Ibn Hazm states:

It has been transmitted by way of Muslim upon the authority of Abu Bakr b. Abi Shaybah, who reported from Zayd b. Hubab, who reported through [omitting narrators] 'Abd al-Rahman b. Abi Sa'īd al-Khudri, who reported from his father that the Messenger of God, may God's peace and blessings be upon him, said: "Let no man see another man's 'awra,<sup>127</sup> nor a woman see another woman's 'awra; [likewise] let no man lie uncovered (*yufḍī ilā*) under the same sheet as another man, nor a woman lie uncovered under the same sheet as another woman."<sup>128</sup>

[And] it has been transmitted [omitted narrators] that 'Abd Allah b. Mas'ud said: "The Messenger of God, may God's peace and blessings be upon him,

forbade two women from lying uncovered skin to skin beneath a single sheet, lest one describe the other to her husband as if he saw her.”<sup>129</sup>

And it has been reported [omitted narrators] that Ibn ‘Abbas said: “The Messenger of God, may God’s peace and blessings be upon him, cursed men who imitate (or take on the appearance of) women (*al-mutashabbihīna min al-rijāl bi al-nisā’*) and women who imitate (or take on the appearance of) men.”<sup>130</sup>

These lucid passages prohibit two men, as well as two women, from lying uncovered and in contact with each other, for both are, like the other, transgressions against God. If a woman uses her genitalia [in intimacy with another woman], then the prohibition is even greater and the vice exponentially graver. Should a woman enter into her vagina other than that which has been made lawful of her husband’s pudendum, or what is used to contain her menstruation, then she has not preserved her chastity...<sup>131</sup>

Ibn Hazm proceeds to state that in the case of sexual acts between two women, the discretionary punishment (*ta‘zīr*) must be applied to discourage moral depravity and prevent the proliferation of vice. Of course, *Al-Muḥallā* is not the only text in which he discusses same-sex acts. In *Tawq al-Ḥamāmah*, in the chapter entitled “Of the Vileness of Sinning,” he states:

As for conduct like that of the people of Lot, that is horrible and disgusting. Allah says, “Will ye commit an abomination which no living creature ever committed before you?” (Koran VII 78). Allah hurled at the offenders stones of clay stamped with a mark (cf. Koran XI 84). Malik is of the opinion that both parties of this offence are to be stoned, whether they are married or not. Some of his followers cite in support of this doctrine the words of God, touching the stoning of the Sodomites, “And stones are not far away from those who commit iniquity” (Koran VI 84): accordingly the stones are near to those who commit iniquity after a like manner today. This is not however the place to enter into a discussion of the divergence of opinions held concerning this question. Abu Ishaq Ibrahim Ibn al-Sari informs us that Abu Bakr burnt alive a man convicted of this offence; Abu ‘Ubaida Ma‘mar Ibn Muthanna relates that the name of the man so burnt was Shuja‘ Ibn Warqa’ al-Asadi; Abu Bakr burnt him alive because he allowed himself to be used in sodomy.<sup>132</sup>

The intelligent man has ample diversions to escape from the commission of sins. Allah has forbidden nothing, without having provided for His servants lawful substitutes, which are seemlier and more excellent than the thing prohibited. There is no God but He!<sup>133</sup>

Clearly Ibn Hazm, like those both before and after him, upheld the requirement of sexual restraint outside the religiously legitimate confines of

(male-female) matrimonial or (male-female) ownership contexts. Otherwise, one's sexual appetite had to be disciplined, not indulged and accommodated on the basis of its mere presence. So committed was Ibn Hazm to this objective that he called for *ta'zīr* as a means to curb the proliferation of sexual immorality, including – very explicitly – all forms of same-sex erotic behavior. Although he disputed with other scholars over their consideration of *liwāṭ* as a *ḥadd* crime due to his categorical rejection of analogical reasoning (*qiyās*) in matters of law, Ibn Hazm never demurred as to whether same-sex sexual behavior was prohibited. In fact he energetically upheld this prohibition, objecting only to the application of a *ḥadd* penalty for either *liwāṭ* or *siḥāq*<sup>134</sup> – acts that he, along with all other jurists, held to be not only sinful in the eyes of God but even punishable in this world as well, albeit according to the discretionary powers of the judge rather than as a divinely mandated *ḥadd* penalty.

### Sloppy Scholarship

A number of stray claims strewn throughout Kugle's work are simply unsustainable upon investigation. Though many could be listed, only a few are presented below.

- *Fusūq* is synonymous with idolatry.<sup>135</sup> Kugle argues that *fusūq* informs *fāḥishah* and that when one understands it normatively as worshipping idols instead of God, then *fāḥishah* must be viewed in this light as well. In reality, *fisq* and its cognates appear throughout the Qur'an in various contexts. For example, Q. 5:108 uses *fāsiqūn* to speak of those who falsify oaths; Q. 6:121 states that eating meat over which God's name has not been pronounced is *fisq*; Q. 6:145 identifies the consumption of blood, carrion, and swine as *fisq*; and Q. 5:47 states that judging by a ruling other than God's is *fisq*. None of these verses pertain to idol worship.<sup>136</sup>
- Islam has accepted not only matrimonial relationships (permanent, and in the case of Shi'ite law possibly temporary as well), but also slavery and, he claims, "*less formally legalized relationships*" [emphasis mine].<sup>137</sup> In point of fact, no relationships other than marriage and ownership are permitted anywhere in the Qur'an, Hadith, or Islamic law. Islam's alleged "acceptance" of "less formally legalized relationships," which Kugle seems to want to use as a door to smuggle in modern-day homosexual relationships, is nothing but a figment of his imagination.



- The Qur'an often uses the plural *fawāḥish* when relating the narrative of Lot.<sup>138</sup> However, the exact opposite is the case: It uses the singular *fāḥishah* each and every time – and in the immediate context of *coming with desire unto men instead of women*. Kugle's intended point here is that in using *fawāḥish*, the Qur'an is not singling out the men's same-sex conduct, but is rather indicting a range of unethical conduct of which they were guilty. Although Lot's people were guilty of a number of misdeeds, the Qur'an uses only *fāḥishah* to repeatedly denounce these men's homosexual practices – their most oft-repeated and, therefore, characteristic sin.

## Conclusion

There is an old Pakistani adage that can loosely be translated as: "Those who cannot dance always say the floor is crooked." People often use this statement to inveigh against those who blame their own shortcomings on everyone (or or anything) but themselves. This adage certainly applies to Scott Kugle's Qur'an revisionism. The Qur'an's and the Sharia's proscription of homoerotic behavior is, according to him, to be explained away by identifying a panoply of "culprits" that must be blamed for having "misread" the Qur'an and the Prophetic Sunnah ever since Islam appeared. In short, the hadith scholars failed to inspect traditions thoroughly; the exegetes were guilty of "definition and substitution"; the jurists would not overcome their "disempowerment" in the face of the dominant patriarchy; and the Muslim community as a whole has failed to take all of them to task.

As an alternative, Kugle proposes a hermeneutic that lacks any internal consistency and rests upon a number of grave methodological infirmities. As shown above, much of his argumentation relies on frequently misleading citations from the classical sources, the omission of relevant materials that contradict his narrative and the use of partial quotations drawn selectively from the most dubitable of sources, the mischaracterization of the positions of the classical jurists and others,<sup>139</sup> the transposition of modern categories onto the classical literature in a way that distorts the meaning of the latter when viewed in its own context, and so on. In many instances, Kugle simply dismisses the established disciplines of Islamic law, theology, and exegesis outright while staking enormous claims on a tenuous body of late, unsourced *qāṣaṣ* materials. Yet even this material can only be gerrymandered into yielding the desired outcome when invoked selectively and in a decidedly decontextualized manner. Kugle depends heavily on Ibn Hazm's contributions, but only invokes his chosen standard bearer selectively and when it suits his agenda.

As we saw in the preceding section, Kugle's revisionist project is explicitly belied by Ibn Hazm's own unflinching condemnation of all forms of homoerotic behavior – even as he retains apparent sympathy for those who suffer from same-sex and other unrequitable forms of love and desire. Kugle's precarious handling of the source materials is only compounded by numerous conceptual incongruences, logical non sequiturs, and glaring contradictions, often at the most critical junctures of his argument. Most significantly, his stated attempt to bypass the “speculative assertion[s]”<sup>140</sup> of the (entire) Islamic tradition in favor of an allegedly “literal” reading of the Qur'an favorable to homosexual practice yields an imaginative reconstruction of Lot's people. However, this reconstruction is extremely speculative and, despite Kugle's insistence to the contrary, fails to offer an even minimally plausible interpretation of the relevant verses. And yet despite all of this countervailing evidence, he nevertheless claims to be the champion of “literal specificity.”<sup>141</sup>

It should be clear by now that Kugle's agenda of finding a way to render same-sex behavior religiously permissible has failed because the Lot narratives are simply too clear and their meanings too obvious. In Islamic law, matters such as the categorical prohibition of homosexual behavior constitute what scholars have termed *ma lūm min al-dīn bi al-darūrah* (matters “known by necessity to be part and parcel of the faith”). God is One, Muhammad (pbuh) is His Messenger and final Prophet, prayers are required five times a day, fasting is obligatory in Ramadan, and other foundational beliefs and practices are all included within this category, as are the undisputed prohibitions of same-sex behavior, fornication, adultery, drinking alcohol, gambling, murder, theft, and other such acts.

For an argument to have intellectual integrity, it must at the very least be honest with the sources and tradition it seeks to interrogate. At some point, one must admit that one is wrong. Sometimes it is not the floor that is crooked, but we who cannot dance. And Allah knows best.

## Appendix

### *Qur'anic Verses Regarding the People of Lot*

(a) *Sūrat al-A'rāf*, 7:80-84: (80) And (mention) Lot, when he said to his people, “Do you commit iniquity (*fāḥishah*) such as none in creation have committed before you? (81) Verily you come with desire unto men instead of women. Nay, you are a people transgressing (beyond bounds).” (82) But the reply of

his people was but to say, “Turn them out from your town! Truly they are people who keep themselves pure.” (83) So We rescued him and his household, save his wife; she was of those who stayed behind. (84) And We brought down upon them a rain (of stones). See then how was the fate of the wrongdoers.

**SYNOPSIS:** Beginning with a confrontation, Lot reproaches his people for coming with desire unto men instead of women. This verse is repeated in the passage related to Lot in *Sūrat al-Naml* (Q. 27:54-58) and is closely related to the verses in *Sūrat al-Shu‘arā’* (Q. 26:16-175), where Lot rebukes his people for this specific act and for doing so at the expense of those whom God has created for them as mates, namely, women. Annoyed by Lot’s preaching, the people threaten him with eviction and castigate both him and his followers for keeping themselves pure. Interestingly, they use *pure* in apparent contrast to themselves, who delight in impure and foul deeds. It is not a stretch to state that they no longer viewed purity as a virtue and used that term to dispage Lot and his followers, as is the case today with “prudishness” in regard to those who maintain pre-marital celibacy. When God punishes the town, Lot and his followers are saved – all but his wife, who is described elsewhere as an example of someone who, along with Noah’s wife, disbelieved in and betrayed (*khānat*) her righteous husband. Accordingly, her matrimonial relationship availed her naught before God. (See *Sūrat al-Tahrīm*, 66:10.)

(b) *Sūrat Hūd*, 11:77-83: (77) And when Our messengers [the angels] came to Lot, he was anguished on their account and constrained from helping them. And he said, “This is a trying day!” (78) And his people came hastening unto him, and before they had been working evil deeds. He said, “O my people, these are my daughters; they are purer for you. So fear God and disgrace me not with respect to my guests. Is there not among you a right-minded man?” (79) They said, “You know well that we have no claim on your daughters, and indeed, you know what we want.” (80) He said, “Would that I had strength against you or could take refuge in a strong support.” (81) They (the angels) said, “O Lot! Verily we are the messengers of your Lord; they shall never reach you. Set out with your family during a portion of the night and let not any among you look back, save your wife; indeed, she shall be struck by that which strikes them. Indeed, their appointment is [for] the morning. Is not the morning nigh?” (82) Then when Our command came, We turned (the town) upside down and rained upon them stones of baked clay in layers, (83) marked [for punishment] with your Lord; nor are they ever far from those who do wrong.

**SYNOPSIS:** Lot is visited by three men who, unbeknownst to him, are angels in human form. Concerned for their welfare as foreigners in Sodom, he feels anguish on their account and takes them into his home as guests. News spreads of their presence there, with some exegetes contending that it was Lot's wife who spread the word. Others describe the men as possessing immense beauty such that Lot's people, having made male-male sexual relations normal, would naturally demand sexual intimacy with them. Sure enough, the people surround his home and demand that he turn his guests over to them for that very reason. Lot entreats the men to consider his daughters instead, as they are "purer" for them. Exegetes have differed as to whether the daughters in question are Lot's lineal descendants or whether the phrase "my daughters" (*banātī*) refers to the town's women in general (prophets are the spiritual "fathers" of their peoples) – the very women these men have abandoned. The phrase "having no claim on Lot's daughters" has been understood by exegetes in various ways (as discussed in the body of the article). Distressed by the men's response, Lot expresses his helplessness to his guests, at which point they unveil their angelic nature and mission. The angels instruct Lot to set out with his family and followers but without his wife, who suffers God's punishment alongside the people of Sodom on the following morn.

(c) *Sūrat al-Hijr*, 15:57-77: (57) He (Lot) said, "What is your purpose, O messengers?" (58) They said, "We have been sent to a people (deep) in sin, (59) except for the family of Lot. Verily, we shall rescue them all, (60) save his wife; we decreed that she shall surely be of those who stay behind." (61) So when the messengers came to the household of Lot, (62) he said, "Verily you are a people unfamiliar." (63) They said, "Nay, but we have come to you with that [torment] over which they were disputing. (64) And we have come to you with truth, for verily we are truthful ones. (65) So set out with your family during a portion of the night and follow behind them, and let not any among you look back, but go on to where you are commanded." (66) We made this decree known to him: that the last remnants of those (profligates) would be cut at early morn. (67) And the people of the city came, rejoicing. (68) He said to them, "These are my guests, so disgrace me not. (69) Fear you God and put me not to shame." (70) They said, "Did we not forbid you from [protecting] all the people?" (71) He said, "Here are my daughters, if indeed you must act." (72) Verily, by your life [O Prophet], they wandered in their intoxication to and fro. (73) And the blast seized them at sunrise, (74) and We turned (the city) upside down and rained down upon them stones of baked clay. (75) Verily in that are signs for those who discern (by way of tokens). (76) Verily,

it (the city) was [situated] on a path still standing. (77) Verily in that is a sign for those who believe.

**SYNOPSIS:** This passage begins with the angelic guests who have set out to destroy the people of Sodom after bearing witness to their prodigal and sinful behavior. Lot recognizes them as strangers, whereupon the guests reveal their true identity and mission. They instruct Lot and his family to vacate Sodom during the night, before God's wrath descends upon the town. Prior to nightfall, the men of Sodom learn of the guests' presence and demand to have sexual relations with them. Lot entreats them to fear God and not to shame him as a host. Frustrated by Lot's repeated admonishments, they tell him not to interfere. Lot once again offers his daughters in order to prevent them from pursuing other men. (See the explanation of "daughters" in the above synopsis related to *Sūrat Hūd*.) Intoxicated by their lust and desires, they wander to and fro until God's punishment seizes them at sunrise.

(d) *Sūrat al-Anbiyā'*, 21:74-75: (74) And to Lot (also) We gave judgment and knowledge, and We delivered him from the town that was working filthy deeds (*al-khabā'ith*). Indeed, they were an evil, licentious folk. (75) And We admitted him (Lot) into Our Mercy, for truly he was among the righteous.

**SYNOPSIS:** The town of Sodom is described as committing filthy deeds and housing evil, licentious folk. Lot, by contrast, is a man of judgment and knowledge, as granted to him by his Lord. A righteous and dedicated prophet, Lot is admitted into the Mercy of God.

(e) *Sūrat al-Shu'arā'*, 26:160-75: (160) The people of Lot belied the messengers. (161) Behold, their brother Lot said to them, "Will you not be mindful (of God)? (162) Indeed, I am a faithful messenger unto you, (163) so fear you God and obey me. (164) I ask from you no reward for it; my reward is only with the Lord of the Worlds. (165) Of all creatures do you come unto males, (166) leaving what your Lord has created for you from your mates? Nay, but you are a people transgressing (the bounds)." (167) They said, "O Lot! If you desist not from this, you shall surely be driven out." (168) He said, "I am, in truth, of those who loathe your deed." (169) "My Lord, deliver me and my family from what they do!" (170) So We delivered him and his family altogether – (171) save an elderly woman (his wife) who stayed behind. (172) Then We destroyed the others, (173) and We brought down upon them a rain (of stones); Evil was the rain of those who had been warned! (174) Verily in that

is a sign, yet most of them do not believe. (175) And verily, your Lord – He is the Exalted in Might, the Merciful.

**SYNOPSIS:** Lot is described as the brother of his people, which for some exegetes indicates that he was indigenous to Sodom. The people are told to fear God and obey Lot, who seeks no financial gain or position of worldly authority among them. Alongside his message of obedience, Lot chides his people – as he does elsewhere in the Qur'an – for lusting after other men and leaving those women whom God has created for them as mates. Al-Razi, al-Zamakhshari, and others interpret "leaving what your Lord has created for you from your mates" as indicating a sole interest in sex by anal penetration rather than vaginal intercourse. Lot's people respond by threatening him with eviction. Undeterred, Lot expresses his disapproval of their conduct and once again beseeches God for salvation. God saves Lot and his entire family with the exception of his wife, who is described as "an elderly woman who stayed behind." The townspeople suffer God's punishment – a torrent of clay stones that rains down upon them and levels the town (see the passage from *Sūrat al-Hijr*).

(f) *Sūrat al-Naml*, 27:54-58: (54) And (mention) Lot, when he said to his people, "Do you commit iniquity (*fāḥishah*) with eyes wide open? (55) Do you indeed come with desire unto men instead of women? Nay, but you are a people behaving foolishly." (56) The reply of his people was but to say, "Turn Lot's family out from your town! Truly they are people who keep themselves pure." (57) So We delivered him and his family, save his wife; We decreed that she would be from those who stay behind. (58) And We brought down upon them a rain (of stones); Evil was the rain of those who had been warned!

**SYNOPSIS:** Like the passages in *Sūrat al-A'raf*, here Lot scolds his people for coming with desire unto men instead of women. He expresses indignation that they would engage in such an act with their eyes wide open (*wa antum tubṣirūn*). Al-Zamakhshari understands *tubṣirūn* as a reference to the sight of the heart (*baṣar al-qalb*), which serves as a kind of moral compass. Accordingly, the people of Sodom are described as knowing that male-male sexual acts are immoral, for God created women for men and vice versa. Al-Razi also mentions this as a possible interpretation, adding to it the possibility that the townspeople partook in homosexual intercourse publicly and made no attempt to conceal their misconduct. Thus they are described as committing this iniquity with their eyes wide open. In response, the people resolve to drive Lot and his



followers out of town, describing them as people who keep themselves pure (see the passage from *Sūrat al-ʿAʿrāf* and accompanying commentary). God saves Lot and his family with the exception of his wife, who remains behind to suffer the punishment.

(g) *Sūrat al-ʿAnkabūt*, 29:28-35: (28) And (mention) Lot, when he said to his people, “You commit iniquity (*fāḥishah*) such as none in creation have committed before you. (29) Do you indeed come unto men, and cut off the road, and practice evil deeds in your assemblies?” The reply of his people was but to say, “Bring upon us God’s punishment, if you are among the truthful.” (30) He said, “My Lord, support me against the people who work corruption.” (31) And when Our messengers came unto Abraham with glad tidings, they said, “We shall surely destroy the people of this town; truly its people are wrongdoers.” (32) He said, “Verily, Lot is in it.” They said, “We know better who is in it. We shall surely deliver him and his household, except for his wife: she is of those who stay behind.” (33) And when Our messengers came to Lot, he was anguished on their account and constrained from helping them. They said, “Fear not, nor grieve. Verily we shall deliver you and your family, save your wife; she is of those who stay behind. (34) Verily we shall bring down upon the people of this town a punishment from Heaven for their having acted iniquitously.” (35) And We (God) have left of it a clear sign for a people possessed of reason.

**SYNOPSIS:** Here Lot’s people are reproached not only for coming unto men as in other passages, but also for cutting off the road and practicing evil deeds in [their] assemblies. Cutting off the road here refers to highway robbery: ambushing, killing, and stealing the travelers’ goods (this interpretation is reported by al-Zamakhshari and Ibn Kathir). Exegetes have differed over exactly what evil deeds they practiced in their gatherings: committing homosexual acts in view of others (a view attributed to Mujahid), saying and doing vulgar things (e.g., telling obscene jokes, passing gas, laughing [an opinion Ibn Kathir attributes to ‘Ā’ishah], and other such indiscreet and unbefitting conduct). Thus Lot’s people invite God’s punishment, after which Lot beseeches his Lord’s help. The angelic messengers first visit Abraham to inform him of Sodom’s destruction prior to arriving at the iniquitous town. Concerned, Abraham in-quires after Lot. The messengers assure him that Lot and his family are safe, all but his wife, who will be destroyed alongside the people. The messengers arrive and address themselves to Lot, revealing their mission and what will happen to his family.

(h) *Sūrat al-Ṣāffāt*, 37:133-36: (133) Truly Lot was among the messengers. (134) We delivered him and his family altogether – (135) save an elderly woman (his wife) who stayed behind. (136) Then We destroyed the others.

**SYNOPSIS:** Like the passage in *Sūrat al-Shu‘arā’*, Lot’s wife is described here as an elderly woman who stayed behind. Lot is confirmed as being a messenger of God, and his people (including his wife) are destroyed on account of their disobedience.

(i) *Sūrat al-Qamar*, 54:33-40: (33) The people of Lot belied the warnings. (34) Verily We unleashed against them a stone-bearing wind, except the family of Lot; We delivered them ere the dawn – (35) as a favor from Us. Thus do We reward the thankful. (36) And indeed he had warned them of Our onslaught, but they disputed the warnings. (37) And they sought to lure him from his guests so We sealed their eyes (and said), “Taste My punishment and [the fulfilment of] My warnings!” (38) And there came upon them by morning an abiding penalty. (39) “Taste My punishment and [the fulfilment of] My warnings!” (40) And verily We have made the Qur’an easy for remembrance, so is there any who will remember?

**SYNOPSIS:** In addition to the torrent of clay raining down upon them, the men who sought after Lot’s guest are described as having their eyes sealed (perhaps as recompense for committing iniquity with their eyes wide open, as per *Sūrat al-Naml*, 27:54 discussed above). Lot warned his people time and again of an impending punishment if they did not reform their ways in accordance with God’s command, but they ignored him and denied his prophetic mission. As a result, they were subjected to a terrible punishment that stands as a warning for those who carelessly and defiantly disobey God’s command.

## Endnotes

1. The Sharia does not, in fact, distinguish categorically between same-sex and opposite-sex acts, a late nineteenth-twentieth-century taxonomy proper to the contemporary West. Rather, it simply distinguishes between licit (*halāl*) and illicit (*ḥarām*) sexual relations. This latter category is further broken down into (1) penetrative acts (e.g., the major sins [*kabā’ir*] of illicit male-female intercourse [*zinā*] and male-male sodomy [*liwāṭ*]) and non-penetrative acts (e.g., inter-femoral intercourse [*muṣākhadhah*], various forms of female-female erotic contact (collectively referred to as *siḥāq* or *musāḥaqah*, Eng. “tribadism,” in reference to the “rubbing together” of the female genitalia), and other non-penetrative illicit acts.

2. See Serena Tolino, "Homosexual acts in Islamic Law: *siḥāq* and *liwāṭ* in the legal debate," GAIR-Mitteilungen (*Gesellschaft für Arabisches und Islamisches Recht e. V.*) 6. Jahrgang (2014) and Sara Omar, "From Semantics to Normative Law: Perceptions of *Liwāṭ* (Sodomy) and *Siḥāq* (Tribadism) in Islamic Jurisprudence (8th-15th Century CE)," *Islamic Law and Society* 19 (2012).
3. See, for example, Khaled El-Rouayheb, "The Love of Boys in Arabic Poetry of the Early Ottoman Period, 1500–1800," *Middle Eastern Literatures* 8, no. 1 (2005).
4. See Barbara Zollner, "Mithliyyun or Lutiyyun? Neo-orthodoxy and the Debate on the Unlawfulness of Same-Sex Relations in Islam," in *Homosexuality and Islam*, ed. Samar Habib (Westwood: Praeger, 2011), which explores the interpretations of various exegetes, arguing that later exegetical works have inherited the hermeneutic of al-Tabari.
5. I will be referring throughout the paper to Prophet Lot ('*alayhi al-salām*) without mentioning an abbreviated statement of prayers after his name. May Allah's peace be upon our Prophet Lot and all of His prophets. Ameen.
6. See Scott Kugle, "Sexuality, Diversity, and Ethics in the Agenda of Progressive Muslims," *Progressive Muslims: On Justice, Gender, and Pluralism*, ed. Omid Safi (Oxford: Oneworld Publications, 2003), 190.
7. Ibid., 192.
8. See ibid., 191, where he quotes from Momin Rahman, *Sexuality and Democracy: Identities and Strategies in Lesbian and Gay Politics* (Edinburgh: Edinburgh University Press, 2000).
9. Kugle, "Sexuality, Diversity, and Ethics," 199.
10. In his 2010 book, however, Kugle dispenses with the label *queer* in order, he explains, to make the work more accessible, as he fears that many readers may find the term "disorienting, overly intellectual, or polemical." See Scott Kugle, *Homosexuality in Islam: Critical Reflection on Gay, Lesbian, and Transgender Muslims* (Oxford: Oneworld Publications, 2010), 13 (e-book edition, 34). Accordingly, in the later work he sticks to the more common terms of *gay*, *lesbian*, and *transgender* (specifically excluding *bisexual*, on which see note 17 below), continuously permutating the order in which these elements appear within any given listing throughout the book.
11. See ibid., 44–46 (e-book, 83–86).
12. See Brent Pickett, "Homosexuality," *The Stanford Encyclopedia of Philosophy* (fall 2015 ), <http://plato.stanford.edu/archives/fall2015/entries/homosexuality> and Janna L. Horowitz and Michael D. Newcomb, "A Multidimensional Approach to Homosexual Identity," *Journal of Homosexuality* 42, no. 2 (2002). The Pickett article provincializes the essentialist account of sexual orientations, while the Horowitz and Newcomb piece also draws the essentialist account into serious question.
13. Queer activist and historian Hanne Blank has argued against essentialism in sexuality: "This new concept [of heterosexuality], gussied up in a mangled

mix of impressive-sounding dead languages, gave old orthodoxies a new and vibrant lease on life by suggesting, in authoritative tones, that science had effectively pronounced them natural, inevitable, and innate.” See Hanne Blank, *Straight: The Surprisingly Short History of Heterosexuality* (Boston: Beacon Press, 2012), xv, as well as Michael Hannon, “Against Heterosexuality,” *First Things* (2014), [www.firstthings.com/article/2014/03/against-heterosexuality](http://www.firstthings.com/article/2014/03/against-heterosexuality). Also see Horowitz and Newcomb, “A Multidimensional Approach to Homosexual Identity,” as well as Terry S. Stein, “Social Constructionism and Essentialism,” *Journal of Gay & Lesbian Psychotherapy* 2, no. 4 (1998). Stein writes (p. 29): “‘Homosexual’ and ‘heterosexual’ behavior may be universal; homosexual and heterosexual identity and consciousness are modern realities. These identities are not inherent in the individual ... To ‘commit’ a homosexual act is one thing; to be a homosexual is something entirely different (Padgug, 1979, 14).” See also Pickett, “Homosexuality,” where he states: “The third and final problem for the gay liberationist approach was that it often took this category of ‘identity’ itself as unproblematic and unhistorical. Such a view, however, largely because of arguments developed within poststructuralism, seemed increasingly untenable. The key figure in the attack upon identity as ahistorical is Michel Foucault. In a series of works he set out to analyze the history of sexuality from ancient Greece to the modern era (1980, 1985, 1986). Although the project was tragically cut short by his death in 1984, from complications arising from AIDS, Foucault articulated how profoundly understandings of sexuality can vary across time and space, and his arguments have proven very influential in gay and lesbian theorizing in general, and queer theory in particular (Spargo, 1999; Stychin, 2005).” Pickett continues: “One of the reasons for the historical review above is that it helps to give some background for understanding the claim that sexuality is socially constructed, rather than given by nature. Moreover, in order to not prejudge the issue of social constructionism versus essentialism, I avoided applying the term ‘homosexual’ to the ancient or medieval eras. In ancient Greece the gender of one’s partner(s) was not important, but instead whether one took the active or passive role. In the medieval view, a ‘sodomite’ was a person who succumbed to temptation and engaged in certain non-procreative sex acts. Although the gender of the partner was more important than in the ancient view, the broader theological framework placed the emphasis upon a sin versus refraining-from-sin dichotomy. With the rise of the notion of ‘homosexuality’ in the modern era, a person is placed into a specific category even if one does not act upon those inclinations. What is the common, natural sexuality expressed across these three very different cultures? The social constructionist answer is that there is no ‘natural’ sexuality; all sexual understandings are constructed within and mediated by cultural understandings. The examples can be pushed much further by incorporating anthropological data outside of the Western tradition (Halperin, 1990; Greenberg, 1988).”

14. Though Kugle and others treat the category of “homosexuality” as axiomatic even in an Islamic context, scholars such as Khaled El-Rouayheb (“The Love of Boys,” 2005), Bruce Dunne, “Homosexuality in the Middle East: An Agenda for Historical Research,” *Arab Studies Quarterly* 12, no. 3/4 (1990), and others have argued the merits of a more constructivist approach to sexual categories. For more details, see citations in the preceding note as well as Serena Tolino, “Homosexuality in the Middle East: An analysis of dominant and competitive discourses,” *Deportate, Esuli, Profughe (DEP)*, no. 24 (2014).
15. Foucault’s works have been central to this discourse, particularly his three-volume *The History of Sexuality*, trans. Robert Hurley (New York: Pantheon Books, 1980, 1985, 1986).
16. For a fuller treatment of this topic, see Daniel Haqiqatjou, “Tough Conversations: Explaining the Islamic Prohibition of Same-Sex Acts to a Western Audience,” Assembly of Muslim Jurists of America (AMJA) 13th Annual Imam Conference (2016), [https://www.academia.edu/23387050/Tough\\_Conversations\\_Explaining\\_the\\_Islamic\\_Prohibition\\_of\\_Same-Sex\\_Acts\\_to\\_a\\_Western\\_Audience](https://www.academia.edu/23387050/Tough_Conversations_Explaining_the_Islamic_Prohibition_of_Same-Sex_Acts_to_a_Western_Audience).
17. In the introduction to *Homosexuality in Islam*, Kugle deliberately excludes bisexuality and the subjective experiences reported by self-identified bisexuals from his consideration (essentially removing the “B” from the common acronym “LGBT”). See Kugle, *Homosexuality in Islam*, 10-13 (e-book, 28-34). The reason Kugle gives for why he does not “venture the next step to ask whether God intends some men and women to be dispositionally bisexual” after asserting the objectivity of a fixed dispositional homosexuality is telling: “To address that question,” he concedes, “would *call into question the definitiveness of sexual orientation* [emphasis mine] and also the discreteness of gender difference which are assumed by gay men, lesbian women, and transgender people” (ibid., 12 [e-book, 32]). Further on, he states that “[i]n contrast [to gay, lesbian, and transgender persons], dispositional bisexuality *challenges the idea that these categories are psychologically firm and socially forceful* [emphasis mine]” (ibid.). He concludes his discussion of bisexuality with the frank admission that “[t]herefore, to focus on bisexuality in this study would be to dilute its focus and *undermine the political and theological force of its argument* [emphasis mine]” (ibid.).
18. Ibid., 44 (e-book, 83).
19. Ibid., 47-48 (e-book, 87-88). Kugle refers to “genetic inheritance” and states that through “contemporary science, we are discovering that genetic patterns in our biological material not only determine our outward but also greatly affect psychic disposition.” See also Kugle, “Sexuality, Diversity, and Ethics,” 194, where he avers that “[i]n the light of new biological knowledge about genetics and sociological knowledge about personality development, the traditional answers [regarding the moral and legal status of homosexual acts in Islam] may no longer be convincing.”
20. See Ed Yong, “No, Scientists Have Not Found the ‘Gay Gene’: The media is hyping a study that doesn’t do what it says it does,” *The Atlantic* (October 10,

- 2015), [www.theatlantic.com/science/archive/2015/10/no-scientists-have-not-found-the-gay-gene/410059](http://www.theatlantic.com/science/archive/2015/10/no-scientists-have-not-found-the-gay-gene/410059) and Pardes Seleh, "Study: No, There's No Evidence Of a 'Gay Gene'," *The Daily Wire* (October 15, 2015), [www.dailywire.com/news/445/study-no-theres-no-evidence-gay-gene-pardes-seleh](http://www.dailywire.com/news/445/study-no-theres-no-evidence-gay-gene-pardes-seleh). Also Terry R. McGuire, "Is Homosexuality Genetic? A Critical Review and Some Suggestions," *Journal of Homosexuality* 28, no. 1-2 (1995) and G. Rice et al., "Male Homosexuality: Absence of Linkage to Microsatellite Markers at Xq28," *Science* 284, no. 5414 (1999).
21. See Richard A. Friedman, "Infidelity Lurks in Your Genes," *The New York Times* (May 22, 2015), [www.nytimes.com/2015/05/24/opinion/sunday/infidelity-lurks-in-your-genes.html](http://www.nytimes.com/2015/05/24/opinion/sunday/infidelity-lurks-in-your-genes.html).
  22. See Daniel Haqiqatjou, "An Open Letter to the Muslim Community in Light of the Orlando Shooting," *Muslim Matters* (June 16, 2016), <http://muslimmatters.org/2016/06/16/an-open-letter-to-the-muslim-community-in-light-of-the-orlando-shooting>.
  23. Q. 70:19.
  24. Q. 4:28.
  25. Q. 21:37.
  26. See Muslim b. al-Hajjaj, *Al-Jāmi' al-Ṣaḥīḥ*, ed. Abu Qutaybah Nazar b. Muhammad al-Faryabi, 1st ed., 2 vols. (Riyadh: Dar Taybah li al-Nashr wa al-Tawzi', 1427/2006), no. 2822, <http://sunnah.com/muslim/53/1>.
  27. See Ahmad b. Shu'ayb al-Nasa'i, *Sunan al-Nasa'i (ma'a Ahkām al-Albānī)*, ed. Muhammad Nasir al-Din al-Albani (Riyadh: Maktabat Ma'arif li al-Nashr wa al-Tawzi', 1434/2013), no. 3763, <http://sunnah.com/nasai/35/3>.
  28. See Kugle, "Sexuality, Diversity, and Ethics," 198. For an exhaustive and nuanced treatment of this phenomenon, see Khaled El-Rouayheb's excellent *Before Homosexuality in the Arab-Islamic World, 1500-1800* (Chicago: The University of Chicago Press, 2005).
  29. Some contemporary Muslims may be surprised to learn of pedophilic infatuation in many pre-modern (and some contemporary) Muslim cultures, although this phenomenon is well attested to in the works of many scholars, recorded in historical literature, and described in poetic works. That said, it should be noted that the entire regime of pederastic love and attraction is a cultural pattern not tied to Islam as a religion or to Muslims per se, for it is also attested to in ancient Greece as well as in pre-Islamic Persia, Egypt, pre-modern China and Japan and other areas. See, for instance, T. Watanabe and J. Iwata, *The Love of the Samurai: A Thousand Years of Japanese Homosexuality*, trans. D. R. Roberts (London: Gay Men's Press, 1989), 31-32. The authors report that pederasty permeated Japanese society, particularly religious and samurai societies. See also R. H. van Gulik, *Sexual Life in Ancient China: A Preliminary Survey of Chinese Sex and Society from ca. 1500 B.C. till 1644 A.D.* (Leiden: Brill, 2003), which details pre-modern Chinese pederasty, and William A. Percy III, *Pederasty and Pedagogy in Archaic Greece* (Urbana & Chicago: University of Illinois Press, 1996).



30. See Lois Anita Giffen, "Ibn Hazm and the Tawq al-Hamama," in *The Legacy of Muslim Spain*, ed. Salma Jayyusi (Leiden: Brill, 1994), 425.
31. This hadith is narrated by al-Hakim and others. Although some have judged it acceptable, others, such as Ibn al-Qayyim (d. 751/1350) [Ibn Qayyim al-Jawziyyah, *Zād al-Ma'ād fī Hady Khayr al-'Ibād*, ed. Shu'ayb al-Arna'ut, 3d ed., 6 vols. (Beirut: Mu'assasat al-Risalah, 1418/1998), 4/252-56 and Ibn Qayyim al-Jawziyyah, *Rawḍat al-Muḥibbīn wa nuzhat al-Mushtāqīn*, ed. Muhammad 'Uzayr Shams, 1st ed. (Jeddah: Majma' al-Fiqh al-Islami, 1431/2010), 266-70] have held it unreliable. Yet others have accepted it as authentically attributable to Ibn 'Abbas but not to the Prophet.
32. See Muhammad b. Dawud al-Isbahani (al-Zahiri), *Kitāb al-Zahrā'*, ed. Ibrahim al-Samarra'i, 2d ed. (al-Zarqa', Jordan: Maktabat al-Manar, 1985), 8-9.
33. See Camilla Adang, "Ibn Hazm on Homosexuality: A Case-Study of Zahiri Legal Methodology," *Al-Qantara* 24, no. 1 (2003).
34. See Giffen, "Ibn Hazm and the Tawq al-Hamama," 425.
35. See Adang, "Ibn Hazm on Homosexuality," 12.
36. See Abu Hamid al-Ghazali, *The Alchemy of Happiness*, trans. Claud Field (Lahore: Sh. Muhammad Ashraf, 195-?), 2, [www.surrenderworks.com/library/downloads/alchemy\\_of\\_happiness.pdf](http://www.surrenderworks.com/library/downloads/alchemy_of_happiness.pdf).
37. See Muhammad b. Isma'il al-Bukhari, *Ṣaḥīḥ al-Bukhārī* (Damascus: Dar Ibn Kathir, 1423/2002), no. 6126, as well as Muslim, *Al-Jāmi' al-Ṣaḥīḥ*, no. 128-31 and no. 2687.
38. See Ibn Rajab al-Hanbali, *The Compendium of Knowledge and Wisdom*, trans. Abdassamad Clarke, trans. of *Jāmi' al-'Ulūm wa al-Ḥikam* (London: Turath Publishing, 1428/2007), 609.
39. Ibid., 610.
40. Ibid., 611-14.
41. Muhammad b. 'Isa al-Tirmidhi, *Sunan al-Tirmidhī*, ed. Abu 'Ubaydah b. Hasan Al Salman, 6 vols. (Riyadh: Maktabat Ma'arif li al-Nashr wa al-Tawzi', n.d.), no. 3479.
42. See Muslim, *Al-Jāmi' al-Ṣaḥīḥ*, no. 2877.
43. Kugle, "Sexuality, Diversity, and Ethics," 200.
44. See Jalal al-Din al-Suyuti, *Al-Ashbāh wa al-Nazā'ir fī Qawā'id wa Furū' Fiqh al-Shāfi'īyah* (Cairo: Dar Ihya' al-Kutub al-'Arabiyyah, 1964?), [http://library.islamweb.net/newlibrary/display\\_book.php?flag=1&bk\\_no=36&ID=38](http://library.islamweb.net/newlibrary/display_book.php?flag=1&bk_no=36&ID=38). This maxim runs counter to the one that applies to human actions in general, namely, *al-aṣl fī al-ashyā' al-ibāḥa* (actions are permissible by default unless specifically prohibited by the Sacred Law).
45. See the following articles on spinsterhood: Fatima Adamou, "Single Childless Muslim Women," *Altmuslimah* (May 11, 2015), [www.altmuslimah.com/2015/05/single-childless-muslim-women/](http://www.altmuslimah.com/2015/05/single-childless-muslim-women/); "The Phenomenon of Spinsterhood," *IDEAL Muslimah*, <http://idealmuslimah.com/family/beforemarriage/677-the-phenomenon-of-spinsterhood.html>; and Habiba Hamid, "A Response to 'Single

- Childless Muslim Women': Embrace Spinsterhood," *Altmuslimah* (May 14, 2015), [www.altmuslimah.com/2015/05/a-response-to-single-childless-muslim-women-embrace-spinsterhood](http://www.altmuslimah.com/2015/05/a-response-to-single-childless-muslim-women-embrace-spinsterhood).
46. Kugle, "Sexuality, Diversity, and Ethics," 200.
  47. Ahmad Ibn Hanbal, *Musnad al-Imām Aḥmad b. Ḥanbal*, ed. Shu'ayb al-Arna'ut, 50 vols. (Beirut: Mu'assasat al-Risalah, n.d.), no. 2915. Al-Arna'ut has classified it as sound (*ḥasan*) in his *taḥqīq* of Ahmad's *Musnad* (see *ibid.*, 5/84). On the punishment for *liwāṭ*, see <https://islamqa.info/ar/38622>.
  48. Muhammad b. Mukarram Ibn Manzur, *Lisān al-ʿArab*, 6 vols. (Cairo: Dar al-Maʿarif, 1429/2008), 6:4099.
  49. Abu Dawud al-Sijistani, *Sunan Abī Dāwūd*, ed. Muhammad b. Salih al-Rajihī (Riyadh: Bayt al-Afkar al-Dawliyyah, n.d.), no. 4463.
  50. See Muhammad b. Yazid Ibn Majah, *Sunan Ibn Mājah (maʿa Aḥkām al-Albānī)*, ed. Muhammad Nasir al-Din al-Albani (Riyadh: Maktabat Maʿarif li al-Nashr wa al-Tawziʿ, 1434/2013), no. 2568.
  51. That is, either within the confines of a matrimonial relationship or the relationship of master to concubine (i.e., "what your right hands possess" in the Qurʾanic idiom).
  52. Madelain Farah, *Marriage and Sexuality in Islam: A Translation of al-Ghazali's Book on the Etiquette of Marriage from The Revival of the Religious Sciences* (Salt Lake City: University of Utah Press, 1984), 45, <http://ghazali.org/works/marriage.htm>.
  53. Both here and elsewhere, Kugle explicitly eschews the conventional "He" translation for the Arabic pronoun *huwa* in reference to God when translating the Qurʾan. As we will see later, although Kugle is keen to accuse past scholars of interposing their own biases into how they interpret and transmit the Qurʾan's meaning, translating *huwa* repeatedly as "God" to expunge the Word of God of its alleged "sexism" in referring to God in the masculine form is a prime example of just such an interlopation, even at the expense of deliberately mistranslating, and therefore misrepresenting, the Divine Word.
  54. Kugle, "Sexuality, Diversity, and Ethics," 190.
  55. See W. M. Watt, *Companion to the Qurʾan based on the Arberry Translation* (London: Routledge, 2013), 41. Importantly, even in modern German, for instance, the word for fetus is none other than *Leibesfrucht*, literally "fruit (*Frucht*) of the womb (*Leib*)."
  56. At a minimum, the Companions practiced coitus interruptus (ʿ*azl*), which is generally agreed to be permissible. Scholars have differed over the use of artificial contraceptives: some permit them and others prohibit them, while still others permit some while proscribing others.
  57. Although Islam is not as strict as Catholicism in requiring that each and every sexual act constitute an opening to the possibility of conception, it nevertheless does restrict legitimate sexual behavior to the overall context of a relationship in which this can paradigmatically occur. Solo sex (on the dominant opinion

that masturbation is *ḥarām*) and same-sex behavior (agreed by consensus to be *ḥarām*) do not clear the bar. Sexual relations between, say, an elderly or sterile couple, on the other hand, would count as legitimate because they fall within the bounds of the paradigmatically approved male-female sexual relationship and continue to honor both the inherently interactive nature of sex as conceived of in Islam (on the dominant view prohibiting masturbation), as well as the natural fit and teleology of the male and female bodies and the complementarity of the male and female principles as extolled in Q. 30:21, Q. 2:187 and elsewhere.

58. "Illegitimacy," rendered in Arabic as *sifāḥ*, is used for extramarital intercourse and is an analog to the more common term *zinā*.
59. Farah, *Marriage and Sexuality in Islam*, 45, <http://ghazali.org/works/marriage.htm>.
60. *Ibid.*, 53.
61. See, e.g., Q. 4:24, Q. 5:5, Q. 23:5, Q. 33:35, Q. 70:29, and others.
62. Al-Nawawī states that *buḍ'* may refer to the specific act of intercourse (*jimā'*) or to the sexual organ (*al-farj nafsuhu*), and that in the context of this hadith both are appropriate. See Yahya b. Sharaf al-Nawawī, *Al-Minhāj fī Sharḥ Ṣaḥīḥ Muslim b. al-Ḥajjāj* (Riyadh: Bayt al-Afkar al-Dawliyyah, n.d.), 641, [http://library.islamweb.net/newlibrary/display\\_book.php?flag=1&bk\\_no=53&ID=2828](http://library.islamweb.net/newlibrary/display_book.php?flag=1&bk_no=53&ID=2828) (content maps to Bayt al-Afkar al-Dawliyyah page citations).
63. See Muslim, *Al-Jāmi' al-Ṣaḥīḥ*, no. 1674.
64. See al-Bukhari, *Ṣaḥīḥ al-Bukhārī*, no. 6474.
65. See Q. 23:5-10.
66. Q. 24:30-31.
67. Abu Muhammad 'Ali b. Ahmad Ibn Hazm, *The Ring of the Dove (A Treatise on the Art and Practice of Arab Love)*, trans. A. J. Arberry (London: Luzac & Company, Ltd., 1953), 262-63, [www.muslimphilosophy.com/hazm/dove/ringdove.html#ch29](http://www.muslimphilosophy.com/hazm/dove/ringdove.html#ch29).
68. Kugle, "Sexuality, Diversity, and Ethics," 197.
69. See note 116 for more details.
70. Kugle, "Sexuality, Diversity, and Ethics," 200.
71. *Ibid.*, 203.
72. *Ibid.*, 204.
73. *Ibid.*
74. Muhammad b. Jarir al-Tabari, *Tafsīr al-Ṭabarī min Kitābihi Jāmi' al-bayān 'an ta'wīl āy al-Qur'an*, ed. Bashshar 'Awwād Ma'ruf and 'Isam Faris al-Hurristani (Beirut: Mu'assasat al-Risalah, 1994), 3:462-63.
75. Kugle, "Sexuality, Diversity, and Ethics," 204.
76. Al-Tabari, *Tafsīr*, 3:464.
77. Kugle, "Sexuality, Diversity, and Ethics," 205.
78. *Ibid.*, 206.
79. *Ibid.*

80. Amreen Jamal, "The Story of Lut and the Qur'an's Perception of the Morality of Same-Sex Sexuality," *Journal of Homosexuality* 41, no. 1 (2001): 69.
81. My use of "allegedly" here is not to entirely disagree with or dismiss Kugle's assertion. Many contemporary traditionalist scholars have argued much the same, stating that pre-modern exegesis was atomistic in its approach and insufficiently synthetic and thematic. Toward this end, Mustansir Mir states: "If there is one feature that almost all types [of exegesis] have in common, it is probably atomism. By atomism here is meant a verse-by-verse approach to the Qur'an." See Mustansir Mir, *Coherence in the Qur'an* (Indianapolis: American Trust Publications, 1986), 1. That said, one must nevertheless consider the distinction between the activity of exegesis, which often concerned itself with elucidating the bare meanings of particular verses, and the process of deriving law, which oversees a greater integration of proof-texts, various rational considerations, and relevant social/cultural circumstances in order to arrive at authoritative rulings (in other words, the distinction between *tafsīr* and *fiqh*). With respect to the Lot narrative and same-gender sexual acts, one experiences this diversity of the legal tradition when evaluating discussions related to the *ḥadd* punishment for *liwāt*, a topic we will explore in the coming section on Ibn Hazm.
82. Kugle, "Sexuality, Diversity, and Ethics," 208.
83. Ibid.
84. The usage of the form *qaṣaṣ* in *qaṣaṣ al-anbiyā'* is rooted in the Qur'an itself, in verses such as Q. 12:3: *Naḥnu naquṣṣu 'alayka aḥsan al-qaṣaṣi bi-mā awhaynā ilayka hādihā al-Qur'ān* (We recite unto thee the best of narrations [*qaṣaṣ*] in that We have revealed to thee this Qur'an) as well as Q. 3:62, Q. 12:111, Q. 18:64, and Q. 28:65. In addition to its use in the Qur'an, *qaṣaṣ* is also the dominant form employed in the works of scholars to refer to the stories of the prophets. Morphologically, *qaṣaṣ* is a kind of superlative verbal noun (*maṣdar*) of the verb *qaṣṣa*, *yaquṣṣu* (to narrate, recount, tell) and, as such, is distinguished from the term *qiṣaṣ*, the plural of *qiṣṣa* (story, tale). See *Al-Mu'jam al-Wasīṭ*, 4th ed., *Majma' al-Lughah al-'Arabīyah* (Cairo: Maktabat al-Shuruq al-Dawliyyah, 1425/2004), 740. Commenting on Q. 12:3, al-Zamakhshari notes that the *qaṣaṣ* of the Qur'an represent the best of stories, proffer the most excellent of lessons, and recount the most wondrous of matters (*'ajā'ib*). Abu al-Qasim Mahmud b. 'Umar al-Zamakhshari, *Tafsīr al-Kashshāf 'an Ḥaqā'iq al-Tanzīl*, ed. Khail Ma'mun Shiha (Beirut: Dar al-Ma'rifah, 2009), 503). Al-Razi considers *qaṣaṣ* to denote the piecemeal and consecutive telling of a story through a series of verses (*āyah ba'da āyah*) rather than as a complete and undivided whole. He also echoes al-Zamakhshari's stress on the rhetorical excellences implied by the term, remarking that *qaṣaṣ* connotes the superiority of the Qur'an's articulation (*bayān*) and rhetoric (*balāghah*) over the ordinary *qiṣaṣ* of men. See Fakhr al-Dīn al-Razi, *Mafātīḥ al-Ghayb: Al-Tafsīr al-Kabīr* (Beirut: Dar al-Fikr, 1981), 18:87. Although Kugle cites works in this genre under the title of "*Qiṣaṣ al-Anbiyā'*," as is not uncommon in academic works written in Western languages, this usage

khalil?

represents a departure from the practice of Islamic scholarship, whose standard term has always been *qaṣaṣ* for the various reasons cited above.

85. Kugle, "Sexuality, Diversity, and Ethics," 209.
86. Khalil 'Athamina, "Al-Qasas: Its Emergence, Religious Origin and Its Socio-Political Impact on Early Muslim Society," *Studia Islamica* 76 (1992): 65.
87. *Ibid.*, 61.
88. *Ibid.*
89. *Ibid.*, 55.
90. See Coeli Fitzpatrick and Adam Hani Walker, *Muhammad in History, Thought, and Culture: An Encyclopedia of the Prophet of God* (Santa Barbara: ABC-CLIO, 2014), 461.
91. See Abu Hurayrah's hadith to the effect that "[t]he people of the Scripture (Jews) used to recite the Torah in Hebrew and they used to explain it in Arabic to the Muslims. Thereupon, Allah's Messenger said, 'Do not believe the people of the Scripture nor disbelieve them, but say: "We believe in Allah and in what was revealed to us." [Q. 2:136],'" cited in al-Bukhari, *Ṣaḥīḥ al-Bukhārī*, no. 4125.
92. See Jonathan Berkey, *Popular Preaching and Religious Authority in the Medieval Islamic Near East* (Seattle: University of Washington Press, 2011), 75-76.
93. See Walid A. Saleh, *The Formation of the Classical Tafṣīr Tradition: The Qur'an Commentary of al-Tha'labī* (d. 427/1035) (Boston: Brill, 2004), 2.
94. The quote is drawn from his review of the *Study Quran*: [www.academia.edu/24894666/The\\_Study\\_Quran\\_Review\\_Haddad\\_02Mar2016\\_MWBR](http://www.academia.edu/24894666/The_Study_Quran_Review_Haddad_02Mar2016_MWBR). *The Muslim World Book Review* 36, no. 3 (2016): 25.
95. This dating is very rough. Due to al-Kisa'i's obscurity, even locating him within a particular century is very difficult. Current scholarship offers highly divergent dates, ranging anywhere from the fifth/eleventh to the seventh/thirteenth century.
96. This claim, however, is pure speculation on Kugle's part, for al-Kisa'i himself includes no references to earlier works.
97. See Kugle, *Homosexuality in Islam*, 74-75 (e-book, 133). Kugle describes the alleged lack of scrutiny applied to the Hadith as a "weakness in contemporary Islamic culture."
98. *Ibid.*, 75 (e-book, 135).
99. *Ibid.*, 75 (e-book, 134). The *ẓannī/qaṭ'ī* dichotomy appears in jurisprudential works as a form of epistemological classification. *Ẓannī* (non-definitive) can either refer to the actual transmitted tradition's authenticity as not being mass-transmitted (*mutawātir*), or to its meaning as being open to more than one interpretation. Conversely, a *qaṭ'ī* tradition is definitive either due to its transmission via a multitude of sources or to its meaning being self-evident, unequivocal, and therefore not open to varying interpretations. This distinction serves the interest of jurists as it pertains to the interpretive process involved in deriving legal rulings. In addition, *ẓannī* appears in theological works with regard to points of creed, specifically with respect to what constitutes disbelief: a believer, once fully cognizant that a hadith has been attested to via mass transmission

(*tawātur*) has no epistemological basis upon which to contest the authenticity of its content. To reject such a hadith would be theologically equivalent to rejecting a verse of the Qur'an, both of which constitute an act of disbelief. Distinguishing between these two types of hadiths also serves various theological and legal purposes, but by no means renders a non-definitive hadith subject to casual dismissal. The Islamic tradition has collectively and unanimously made use of *ẓannī* hadiths for legal purposes, in conformity with conditions set out in detail by scholars of *uṣūl al-fiqh*. This subject is treated in depth in, for example, 'Abd al-'Aziz b. Ahmad al-Bukhari, *Kashf al-Asrār 'an Uṣūl Fakhr al-Islām al-Bazdawī*, 3 ed. (Beirut: Dar al-Kitab al-'Arabi, 1997) as well as in the work of the twentieth-century scholar 'Abd Allah Khallaf, *Ilm Uṣūl al-Fiqh*, 2d ed. (Cairo: Matba'at Nahdat Misr, 1946). For related discussions in English, see Jonathan A. C. Brown, *Hadith: Muhammad's Legacy in the Medieval and Modern World: Foundations of Islam* (Oxford: Oneworld Publications, 2009), 100-06, as well as 150-72 and 173-83.

100. Kugle, *Homosexuality in Islam*, 75 (e-book 133).
101. Ibid., 73-127 (e-book, 131-215).
102. Ibid., 84 (e-book, 148).
103. Ibid.
104. In addition to a further obscure text (which we shall examine in our discussion of Qutb al-Din al-Rawandī's *qaṣaṣ* work ) that appears in a tertiary Hadith collection and is in all likelihood spurious.
105. Kugle, "Sexuality, Diversity, and Ethics," 213.
106. Ibid.
107. Muhammad b. 'Abd Allah al-Kisā'i, *Bad' al-Khalq wa Aṣaṣ al-Anbiyā'*, ed. al-Tahir b. Salamah (Tunis: Dar Nuqush 'Arabiyyah, 1998).
108. Isma'il b. 'Umar Ibn Kathir, *Qaṣaṣ al-Anbiyā'*, ed. 'Abd al-Hayy al-Farmawī (Cairo: Dar al-Tab'ah wa al-Nashr al-Islamiyyah, 1997), 243.
109. Kugle, "Sexuality, Diversity, and Ethics," 213.
110. Qutb al-Din al-Rawandī, *Qaṣaṣ al-Anbiyā'*, ed. Ghulam Rida 'Irfanyan (Iran: Majma' al-Buhuth al-Islamiyyah, 1989), 119, no. 119.
111. Kugle, "Sexuality, Diversity, and Ethics," 214.
112. Kugle, *Homosexuality in Islam*, 56 (e-book, 102).
113. Kugle, "Sexuality, Diversity, and Ethics," 215.
114. Kugle, *Homosexuality in Islam*, 56 (e-book, 102).
115. Ibid., 55 (e-book, 100-01).
116. See al-Razi, *Mafātīḥ al-Ghayb*, 24:161 and al-Zamakhshari, *Kashshāf*, 767, for two examples, although this interpretation is repeated in a number of *tafsīr* works.
117. This position is reported in multiple *tafsīr* works. Al-Tabari maintains this interpretation when he states: "O my people, these are my daughters – meaning the women of his umma." See al-Tabari, *Tafsīr*, 4:297. Al-Razi reports this position as being one of two interpretations of "daughters," preferring it on account of: (i) it being contrary to manly virtue (*murū'ah*) for a prophet to marry his daughters



to transgressors; (ii) Lot's daughters being only a handful in number and inadequate for marrying the multitude of men at his doorstep; and (iii) the fact that the soundest report concerning Lot's daughters is that he had only two, in which case the term "two daughters" (*bintayn*) would have been used in the dual form instead of the plural "daughters" (*banāt*). Al-Razi reports this as the interpretation of Sa'id b. Jubayr (d. 95/714) and Mujahid (d. between 100/718 and 104/722) and states that prophets are "fathers" to their people as a normative matter, citing as evidence Q. 33:6: "And his [the Prophet's (pbuh)] wives are their [the believers'] mothers." See al-Razi, *Mafātīḥ al-Ghayb*, 18:33-34.

118. Al-Tabari, *Tafsīr*, 4:298.
119. Al-Zamakhshari, *Kashshāf*, 492.
120. Al-Razi, *Mafātīḥ al-Ghayb*, 18:35.
121. Kugle, *Homosexuality in Islam*, 52 (e-book, 95).
122. Ibid., 52 (e-book, 96).
123. Ibid., 27 (e-book, 56).
124. Ibid., 52 (e-book, 95).
125. Ibid., 78 and 79 (e-book, 139 and 141).
126. Abu Muhammad 'Ali b. Ahmad Ibn Hazm, *Al-Muḥallā fī Sharḥ al-Mujallā bi al-Hujaj wa al-Āthār*, ed. Hassan 'Abd al-Mannan (Riyadh: Bayt al-Afkar al-Dawliyyah, 1431/2009), 2221, [https://library.islamweb.net/hadith/display\\_hbook.php?bk\\_no=661&pid=328595&hid=1686](https://library.islamweb.net/hadith/display_hbook.php?bk_no=661&pid=328595&hid=1686).
127. 'Awra refers to that part of the body that (1) must be covered in front of marriageable members of the opposite sex, (2) in front of unmarried kin (e.g., one's father, mother, sister, or brother upon reaching maturity), and (3) in front of other members of the same sex.
128. See Muslim, *Al-Jāmi' al-Saḥīḥ*, no. 338, <http://sunnah.com/muslim/3/90>.
129. Both this hadith and the one immediately preceding it offer a commentary with respect to the Companions, who ordinarily slept in clothes that did not fully cover their 'awra. Clothing was difficult to come by, and few had the wealth to afford multiple sets. In addition, it was common for two men or two women to share a blanket at night. Depending on its size, they might inadvertently make contact during the night. The hadith reports cited here outline guidelines for what is permissible in such circumstances. Legal scholars have understood them to mean that should two men or two women happen to share the same blanket, they must have something separating them if they are not observing the minimum 'awra. Others, however, such as Shams al-Haqq al-'Azimabadi, have regarded the sharing of a blanket between two men or two women as categorically impermissible, irrespective of whether such a separation exists or not. For details, see al-Nawawi, *Al-Minhāj*, 315-16, [http://library.islamweb.net/newlibrary/display\\_book.php?flag=1&bk\\_no=53&ID=935](http://library.islamweb.net/newlibrary/display_book.php?flag=1&bk_no=53&ID=935), and al-'Azimabadi, *'Awn al-Ma'būd, Sharḥ Sunan Abī Dāwūd*, 1 ed. (Riyadh: Maktabat al-Ma'arif li al-Nashr wa al-Tawzi', 2009), 1723-25, [http://library.islamweb.net/newlibrary/display\\_book.php?flag=1&bk\\_no=55&ID=6973](http://library.islamweb.net/newlibrary/display_book.php?flag=1&bk_no=55&ID=6973).

130. Note that this hadith refers to deliberate imitation of the opposite sex, particularly in dress (al-Bukhari, for instance, places it in his chapter on clothing). It does not cover those aspects of a person that might resemble the other sex but that are in-born (*khilqī*) or not deliberately taken on by the person, and it certainly does not refer to popular notions of “manhood” that regard emotional detachment, aggression, and sexual prowess as fundamental markers of masculinity.
131. Ibn Hazm, *Al-Muḥallā*, 2225, [http://library.islamweb.net/newlibrary/display\\_book.php?idfrom=2401&idto=2401&bk\\_no=17&ID=2343](http://library.islamweb.net/newlibrary/display_book.php?idfrom=2401&idto=2401&bk_no=17&ID=2343).
132. This text appears in a chapter entitled “Of the Vileness of Sinning” and is cited as a deterrent against wrong action. As we have mentioned, Ibn Hazm in fact disagrees with these positions and regards the narrations as inauthentic, as detailed in his *Al-Muḥallā*. However, he quotes them here to caution his reader about the enormity of the sin of male-male sexual acts.
133. See Ibn Hazm, *The Ring of the Dove*, 258-59, [www.muslimphilosophy.com/hazm/dove/ringdove.html#ch29](http://www.muslimphilosophy.com/hazm/dove/ringdove.html#ch29). Earlier in the same section (*ibid.*, 245-46), Ibn Hazm recounts his disapproval of two men eying each other conspicuously and repeatedly disappearing into privacy at a party. He states: “I remember that I was at a reception with some friends; the party was being given by one of our wealthiest burghers. I observed one of the guests, and a member of our host’s family who was also present, behaving in a manner of which I strongly disapproved; they were ogling each other quite disgustingly and withdrawing into privacy time and time again.” Ibn Hazm reports that he tried, through verse and many not-so-subtle hints, to alert the host to such untoward behavior so that he might put an end to it, but to no avail. “So I held my peace,” he says, “not knowing whether he really did not grasp my meaning, or whether he was only pretending to be stupid. I do not remember ever going to his parties again. I composed the following little poem in his honour:

I have no doubt, of all mankind,  
 You have the least suspicious mind,  
 Secure, as all good Muslims ought  
 To be, in faith, intention, thought.

I think you ought to be aware  
 Men bend for other things than prayer;  
 And you have certainly taught me,  
 Not everyone with eyes can see!”

Wake from your daydreams! Don’t you know  
 This very evening So-and-so,  
 A guest whom you invited in,  
 Committed a most grievous sin?

134. Albeit considering tribadism (*siḥāq*) subject to a *ḥadd* penalty is uncommon, Ibn Hazm attributes it to Ibn Shihab al-Zuhri (d. 124/741-2). For more details, see Ibn Hazm, *Al-Muḥallā*, 2224-25, [http://library.islamweb.net/newlibrary/display\\_book.php?idfrom=2401&idto=2401&bk\\_no=17&ID=2343](http://library.islamweb.net/newlibrary/display_book.php?idfrom=2401&idto=2401&bk_no=17&ID=2343).
135. Kugle, "Sexuality, Diversity, and Ethics," 201.
136. Linguistically, the triliteral root *f-s-q* denotes disobedience and straying from God's command. Inclining toward transgression, departing from the path of righteousness and truth, and breaking out of (as something breaks through a crease, or the morning emerges from the darkness during *ḥajr*) are all definitions included in classical lexical works. See, for example, Ibn Manzur, *Lisān al-ʿArab*, 6:3413-14; Ahmad Ibn Faris, *Muʿjam Maqāyīs al-Lughah*, ed. ʿAbd al-Salam Muhammad Harun, 6 vols. (Beirut: Dar al-Fikr li al-Tibaʿah wa al-Tawziʿ wa al-Nashr, 1399/1979), 4:502; and Ismaʿīl b. Hammad al-Jawhari, *Al-Ṣiḥāḥ, Tāj al-Lughah wa Ṣiḥāḥ al-ʿArabīyah*, ed. Ahmad ʿAbd al-Ghafur ʿAttar, 4th ed., 7 vols. (Beirut: Dar al-ʿIlm li al-Malayin, 1990), 1543.
137. Kugle, "Sexuality, Diversity, and Ethics," 193.
138. Ibid., 217.
139. Such as, for example, the assertion that "jurists in the classical period did not reach consensus about the legal status of anal sex between men" (ibid., 216), which refers only to how *liwāṭ* should be categorized for purposes of determining punishment, not that there was no consensus about its "legal status" of being rigorously prohibited (*ḥarām*).
140. See ibid., 204.
141. Ibid., 200.